

Amendment in the Nature of a Substitute
To H.R. 833, As Reported
Offered by Mr. Nadler of New York

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Bankruptcy Reform Act of 1999”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

- Sec. 101. Conversion.
- Sec. 102. Dismissal or conversion.
- Sec. 103. Notice of alternatives.
- Sec. 104. Debtor financial management training test program.

Subtitle B—Consumer Bankruptcy Protections

- Sec. 105. Definitions.
- Sec. 106. Enforcement.
- Sec. 107. Sense of the congress.
- Sec. 108. Discouraging abusive reaffirmation practices.
- Sec. 109. Promotion of alternative dispute resolution.
- Sec. 110. Enhanced disclosure for credit extensions secured by a dwelling.
- Sec. 111. Dual use debit card.
- Sec. 112. Discouraging reckless lending practices.
- Sec. 113. Protection of savings earmarked for the postsecondary education of children.
- Sec. 114. Effect of discharge.
- Sec. 115. Limiting trustee liability.
- Sec. 116. Reinforce the fresh start.
- Sec. 117. Discouraging bad faith repeat filings.
- Sec. 118. Curbing abusive filings.
- Sec. 119. Debtor retention of personal property security.

- Sec. 120. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 121. Giving secured creditors fair treatment in chapter 13.
- Sec. 123. Fair valuation of collateral.
- Sec. 124. Domiciliary requirements for exemptions.
- Sec. 125. Restrictions on certain exempt property obtained through fraud.
- Sec. 126. Rolling stock equipment.
- Sec. 127. Discharge under chapter 13.
- Sec. 128. Bankruptcy judgeships.
- Sec. 129. Additional amendments to title 11, United States Code.
- Sec. 131. Application of the codebtor stay only when the stay protects the debtor.
- Sec. 132. Adequate protection for investors.
- Sec. 134. Giving debtors the ability to keep leased personal property by assumption.
- Sec. 135. Adequate protection of lessors and purchase money secured creditors.
- Sec. 136. Automatic stay.
- Sec. 137. Extend period between bankruptcy discharges.
- Sec. 139. Priorities for claims for domestic support obligations.
- Sec. 142. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 143. Continued liability of property.
- Sec. 144. Protection of domestic support claims against preferential transfer motions.
- Sec. 145. Clarification of meaning of household goods.
- Sec. 147. Monetary limitation on certain exempt property.
- Sec. 148. Bankruptcy fees.
- Sec. 149. Collection of child support.
- Sec. 150. Excluding employee benefit plan participant contributions and other property from the estate.
- Sec. 151. Clarification of postpetition wages and benefits.
- Sec. 152. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 153. Automatic stay inapplicable to certain proceedings against the debtor.
- Sec. 154. Definition of domestic support obligation.
- Sec. 155. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
- Sec. 156. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 157. Exemption for right to receive certain alimony, maintenance, or support.
- Sec. 158. Automatic stay inapplicable to certain proceedings against the debtor.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 201. Reenactment of chapter 12.
- Sec. 202. Meetings of creditors and equity security holders.
- Sec. 203. Protection of retirement savings in bankruptcy.
- Sec. 204. Protection of refinance of security interest.
- Sec. 205. Executory contracts and unexpired leases.
- Sec. 206. Creditors and equity security holders committees.
- Sec. 207. Amendment to section 546 of title 11, United States Code.
- Sec. 208. Limitation.
- Sec. 209. Amendment to section 330(a) of title 11, United States Code.
- Sec. 210. Postpetition disclosure and solicitation.

- Sec. 211. Preferences.
- Sec. 212. Venue of certain proceedings.
- Sec. 213. Period for filing plan under chapter 11.
- Sec. 214. Fees arising from certain ownership interests.
- Sec. 215. Claims relating to insurance deposits in cases ancillary to foreign proceedings.
- Sec. 216. Defaults based on nonmonetary obligations.
- Sec. 217. Sharing of compensation.
- Sec. 218. Priority for administrative expenses.

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

- Sec. 301. Definition of disinterested person.
- Sec. 302. Miscellaneous improvements.
- Sec. 303. Extensions.
- Sec. 304. Local filing of bankruptcy cases.
- Sec. 305. Permitting assumption of contracts.

TITLE IV SMALL BUSINESS BANKRUPTCY PROVISIONS

- Sec. 401. Flexible rules for disclosure Statement and plan.
- Sec. 402. Definitions.
- Sec. 403. Standard form disclosure Statement and plan.
- Sec. 404. Uniform national reporting requirements.
- Sec. 405. Uniform reporting rules and forms for small business cases.
- Sec. 406. Duties in small business cases.
- Sec. 407. Plan filing and confirmation deadlines.
- Sec. 408. Plan confirmation deadline.
- Sec. 409. Prohibition against extension of time.
- Sec. 410. Duties of the United States trustee.
- Sec. 411. Scheduling conferences.
- Sec. 412. Serial filer provisions.
- Sec. 413. Expanded grounds for dismissal or conversion and appointment of trustee or examiner.
- Sec. 414. Study of operation of title 11 of the United States Code with respect to small businesses.
- Sec. 415. Payment of interest.
- Sec. 416. Protection of jobs.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 501. Petition and proceedings related to petition.
- Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

- Sec. 601. Creditor representation at first meeting of creditors.
- Sec. 602. Audit procedures.
- Sec. 603. Giving creditors fair notice in chapter 7 and 13 cases.
- Sec. 604. Dismissal for failure to timely file schedules or provide required information.
- Sec. 605. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 606. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 607. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 608. Elimination of certain fees payable in chapter 11 bankruptcy cases.
- Sec. 609. Study of bankruptcy impact of credit extended to dependent students.

- Sec. 610. Prompt relief from stay in individual cases.
- Sec. 611. Stopping abusive conversions from chapter 13.
- Sec. 612. Bankruptcy appeals.
- Sec. 613. GAO study.

TITLE VII—BANKRUPTCY DATA

- Sec. 701. Improved bankruptcy statistics.
- Sec. 702. Uniform rules for the collection of bankruptcy data.
- Sec. 703. Sense of the Congress regarding availability of bankruptcy data.

TITLE VIII—BANKRUPTCY TAX PROVISIONS

- Sec. 801. Treatment of certain liens.
- Sec. 802. Effective notice to government.
- Sec. 803. Notice of request for a determination of taxes.
- Sec. 804. Rate of interest on tax claims.
- Sec. 805. Tolling of priority of tax claim time periods.
- Sec. 806. Priority property taxes incurred.
- Sec. 807. Chapter 13 discharge of fraudulent and other taxes.
- Sec. 808. Chapter 11 discharge of fraudulent taxes.
- Sec. 809. Stay of tax proceedings.
- Sec. 810. Periodic payment of taxes in chapter 11 cases.
- Sec. 811. Avoidance of statutory tax liens prohibited.
- Sec. 812. Payment of taxes in the conduct of business.
- Sec. 813. Tardily filed priority tax claims.
- Sec. 814. Income tax returns prepared by tax authorities.
- Sec. 815. Discharge of the estate's liability for unpaid taxes.
- Sec. 816. Requirement to file tax returns to confirm chapter 13 plans.
- Sec. 817. Standards for tax disclosure.
- Sec. 818. Setoff of tax refunds.

TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 901. Amendment to add chapter 15 to title 11, United States Code.
- Sec. 902. Amendments to other chapters in title 11, United States Code.

TITLE X—FINANCIAL CONTRACT PROVISIONS

- Sec. 1001. Treatment of certain agreements by conservators or receivers of insured depository institutions.
- Sec. 1002. Authority of the corporation with respect to failed and failing institutions.
- Sec. 1003. Amendments relating to transfers of qualified financial contracts.
- Sec. 1004. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
- Sec. 1005. Clarifying amendment relating to master agreements.
- Sec. 1006. Federal Deposit Insurance Corporation Improvement Act of 1991.
- Sec. 1007. Bankruptcy Code amendments.
- Sec. 1008. Recordkeeping requirements.
- Sec. 1009. Exemptions from contemporaneous execution requirement.
- Sec. 1010. Damage measure.
- Sec. 1011. SIPC stay.
- Sec. 1012. Asset-backed securitizations.
- Sec. 1013. Federal Reserve collateral requirements.
- Sec. 1014. Effective date; application of amendments.

TITLE XI—TECHNICAL CORRECTIONS

- Sec. 1101. Definitions.
- Sec. 1102. Adjustment of dollar amounts.
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- Sec. 1104. Technical amendments.
- Sec. 1105. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
- Sec. 1106. Limitation on compensation of professional persons.
- Sec. 1107. Special tax provisions.
- Sec. 1108. Effect of conversion.
- Sec. 1109. Allowance of administrative expenses.
- Sec. 1110. Priorities.
- Sec. 1111. Exemptions.
- Sec. 1112. Exceptions to discharge.
- Sec. 1113. Effect of discharge.
- Sec. 1114. Protection against discriminatory treatment.
- Sec. 1115. Property of the estate.
- Sec. 1116. Preferences.
- Sec. 1117. Postpetition transactions.
- Sec. 1118. Disposition of property of the estate.
- Sec. 1119. General provisions.
- Sec. 1120. Appointment of elected trustee.
- Sec. 1121. Abandonment of railroad line.
- Sec. 1122. Contents of plan.
- Sec. 1123. Discharge under chapter 12.
- Sec. 1124. Bankruptcy cases and proceedings.
- Sec. 1125. Knowing disregard of bankruptcy law or rule.
- Sec. 1126. Transfers made by nonprofit charitable corporations.
- Sec. 1127. Prohibition on certain actions for failure to incur finance charges.
- Sec. 1128. Protection of valid purchase money security interests.
- Sec. 1129. Trustees.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 1201. Effective date; application of amendments.

1 **TITLE I—CONSUMER**
2 **BANKRUPTCY PROVISIONS**
3 **Subtitle A—Needs based**
4 **bankruptcy**

5 **SEC. 101. CONVERSION.**

6 Section 706(c) of title 11, United States Code, is
7 amended by inserting “or consents to” after “requests”.

1 **SEC. 102. DISMISSAL OR CONVERSION.**

2 (a) IN GENERAL.—Section 707 of title 11, United
3 States Code, is amended—

4 (1) by striking the section heading and insert-
5 ing the following:

6 **“§ 707. Dismissal of a case or conversion to a case
7 under chapter 13”; and**

8 (2) by amending subsection (b) to read as fol-
9 lows:

10 “(b)(1) After notice and a hearing, a court, on its
11 own motion or on a motion by the United States trustee,
12 the trustee, or any part in interest who is eligible to bring
13 a motion, may dismiss a case filed by an individual debtor
14 under this chapter, or with the debtor’s consent, convert
15 such a case to a case under chapter 11 or 13 of this title
16 if it finds that the granting of relief would be an abuse
17 of the provisions of this chapter, the court shall consider
18 whether—

19 “(A) the debtor has the ability to repay some
20 portion of the debtor’s unsecured nonpriority debt as
21 determined under paragraphs (2) and (3);

22 “(B) the debtor has filed the petition in bad
23 faith; or

24 “(C) the totality of the circumstances (including
25 whether the debtor seeks to reject a personal serv-
26 ices contract and the financial need for such rejec-

1 tion as sought by the debtor) of the debtor's finan-
2 cial situation demonstrates abuse.

3 “(2) In considering under paragraph (1)(A) whether
4 the granting of relief would be an abuse of the provisions
5 of this chapter, the court shall conclusively presume abuse
6 does not exist if the debtor's current monthly income,
7 when multiplied by 12, is less than or equal to 100 percent
8 of the highest national or applicable State or Statistical
9 Area median family income reported for a family of equal
10 size, whichever is greater, or in the case of a household
11 of 1 person, less than or equal to 100 percent of the high-
12 est national or State or Metropolitan Statistical Area me-
13 dian household income for 1 earner, whichever is greater,
14 as adjusted, if applicable, as provided in paragraph (6).

15 “(3) In considering under paragraph (1)(A) whether
16 the granting of relief would be an abuse of the provision
17 of this chapter, the court shall presume abuse exists if—

18 “(A) the debtor's current monthly income, when
19 multiplied by 12, is less than or equal to 100 per-
20 cent of the highest national or applicable State or
21 Metropolitan Statistical Area median family income
22 reported for a family of equal size, whichever is
23 greater, or in the case of a household of 1 person,
24 less than or equal to 100 percent of the highest na-
25 tional or State or Metropolitan Statistical Area me-

1 dian household income for 1 yearner, whichever is
2 greater, as adjusted, if applicable, as provided in
3 paragraph (6); and

4 “(B) the product of—

5 “(i) the debtor’s current monthly income,
6 reduced by allowable monthly expenses specified
7 in paragraph (4) (which shall include, if appli-
8 cable the continuation of actual expenses of a
9 dependent child under the age of 18 for tuition,
10 books, and required fees at a private elementary
11 or secondary school, or comparable expenses
12 stemming from the home education of such
13 child, or the attendance of such child at a pub-
14 lic elementary or secondary school, not exceed-
15 ing \$10,000) and monthly debt payments speci-
16 fied in paragraph (5), and

17 “(ii) multiplied by 36,

18 less estimated administrative expenses and reason-
19 able attorneys’ fees, is not less than \$6,000 of the
20 debtor’s nonpriority unsecured claims in the case.

21 “(4) For the purposes of this subsection, the debtor’s
22 allowable monthly expenses shall be the expenses reason-
23 ably necessary—

24 “(A) for the maintenance or support of the
25 debtor, the dependents of the debtor, and in a joint

1 case, the spouse of the debtor if the spouse is not
2 otherwise a dependent; and

3 “(B) if the debtor is engaged in business, for
4 the payment of expenditures necessary for the con-
5 tinuation, preservation, and operation of such busi-
6 ness.

7 Notwithstanding any other provision of this clause, the
8 debtor’s monthly expenses shall not include payments for
9 debts described in paragraph (5).

10 “(5) For purposes of this subsection, the debtor’s
11 monthly debt payments shall include—

12 “(A) the total amount scheduled as contrac-
13 tually due on all secured debts in each month of the
14 36 months following the date of the petition and di-
15 vided by 36; and

16 “(B) the debtor’s expenses for payment of all
17 priority claims, including priority domestic support
18 obligations, calculated as the total amount of debts
19 entitled to priority in each month of the 36 months
20 following the date of the petition and divided by 36.

21 “(6) For the purposes of this subsection—

22 “(A) national or applicable State or Metropoli-
23 tan Statistical Area median family income reported
24 for a household of more than 4 individuals shall be
25 that of a household of 4 individuals plus \$583 per

1 month for each additional member of that house-
2 hold;

3 “(B) a family or household shall consist of the
4 debtor, the debtor’s spouse, and the debtor’s depend-
5 ents, but not a legally separated spouse unless the
6 spouse files a joint case with the debtor.

7 “(7) In any proceeding brought under this sub-
8 section, the presumption of abuse may be rebutted by
9 demonstrating special circumstances that justify addi-
10 tional reasonable expenses or adjustments of current
11 monthly total income. In order to establish such cir-
12 cumstances, the debtor shall be required to—

13 “(A) itemize each additional expense or adjust-
14 ment of income; and

15 “(B) provide documentation of such expenses
16 and a detailed explanation of the circumstances that
17 warrant such expenses.

18 “(8)(A) As part of the schedule of current income
19 and expenditures required under section 521, the debtor
20 shall include—

21 “(i) a statement of the debtor’s current monthly
22 income and calculations that show whether a pre-
23 sumption arises under paragraph (1)(A) of this sub-
24 section; or

1 “(ii) a statement of the debtor’s current month-
2 ly income showing that the debtor is a debtor de-
3 scribed in paragraph (14) of this subsection.

4 “(B) The Supreme Court shall promulgate rules
5 under section 2075 of title 28, United States Code, that
6 prescribe a form for a statement under subparagraph (A)
7 and may provide general rules on the content of such
8 statement.

9 “(9) If a trustee brings a motion for dismissal or con-
10 version under this subsection, and the court grants that
11 motion and finds that the action of the counsel for the
12 debtor in filing under this chapter violated Rule 9011, the
13 courts shall assess damages, which may include ordering—

14 “(A) the counsel for the debtor to reimburse
15 the trustee for all reasonable costs in prosecuting a
16 motion brought under section 707(b), including rea-
17 sonable attorneys’ fees;

18 “(B) the assessment of an appropriate civil pen-
19 alty against the counsel for the debtor; and

20 “(C) the payment of the civil penalty to the
21 trustee or the United States trustee.

22 “(10) The court may award a debtor all reasonable
23 costs and other appropriate damages in contesting a mo-
24 tion brought by a party in interest (other than a trustee,
25 bankruptcy administrator, or United States trustee) under

1 this subsection (including reasonable attorneys' fees) if the
2 court does not grant the motion and the court finds that—

3 “(A) the position of the party that brought the
4 motion was not substantially justified; or

5 “(B) the party brought the motion solely for
6 the purpose of coercing the debtor into waiving a
7 right guaranteed to the debtor under this title.

8 “(11) A party in interest may not bring a motion
9 under this section until the United States trustee has ei-
10 ther filed a statement under section 704(b)(2)(A) or filed
11 a motion under section 704(b)(2)(B).

12 “(12) If an attorney for a party in interest (other
13 than a trustee, bankruptcy administrator, or United
14 States trustee) brings a motion for dismissal or conversion
15 under this subsection, and the court does not grant that
16 motion and finds that the action of the counsel for the
17 moving party in filing such motion under this chapter vio-
18 lated Rule 9011, the court shall assess damages, which
19 may include ordering—

20 “(A) the counsel for the moving party to reim-
21 burse the debtor for all reasonable costs in defending
22 a motion brought under section 707(b), including
23 reasonable attorneys' fees;

24 “(B) the assessment of an appropriate civil pen-
25 alty against the counsel for the moving party.

1 “(13) In making a determination whether to dismiss
2 a case under this section, the court may not take into con-
3 sideration whether a debtor has made, or continues to
4 make, charitable contributions (that meet the definition
5 of ‘charitable contribution’ under section 548(d)(3) and
6 as described by section 548(a)(2) of this title to any quali-
7 fied religious or charitable entity or organization (as that
8 term is defined in section 548(d)(4)) of this title.

9 “(14) No court, United States trustee, bankruptcy
10 administrator, or other party in interest shall bring a mo-
11 tion under subsection (b)(1)(A) if, as of the date of the
12 order for relief, the debtor’s current monthly income, when
13 multiplied by 12, is less than or equal to 100 percent of
14 the highest national or applicable State or Metropolitan
15 Statistical Area median family income reported for a fam-
16 ily of equal size, whichever is greater, or in the case of
17 a household of 1 person, less than or equal to 100 percent
18 of the highest national or State or Metropolitan Statistical
19 Area median household income for 1 earner, whichever is
20 greater, as adjusted, if applicable, as provided in para-
21 graph(6);”.

22 (b) DEFINITION.—Section 101 of title 11, United
23 States Code, is amended—

24 (1) by inserting after paragraph (10) the follow-
25 ing:

1 “(10A) ‘current monthly income’—

2 “(A) means the average monthly income
3 from all sources which the debtor, or in a joint
4 case, the debtor and the debtor’s spouse, receive
5 without regard to whether the income is taxable
6 income, derived during the 180-day period pre-
7 ceding the date of determination;

8 “(B) includes any amount paid by any en-
9 tity other than the debtor (or, in a joint case,
10 the debtor and the debtor’s spouse), on a regu-
11 lar basis to the household expenses of the debt-
12 or or the debtor’s dependents (and, in a joint
13 case, the debtor’s spouse if not otherwise a de-
14 pendent), but excludes—

15 “(i) payments to victims of war
16 crimes or crimes against humanity;

17 “(ii) benefits received from the De-
18 partment of Veterans Affairs in connection
19 with service in the armed forces of the
20 United States;

21 “(iii) income received on account of
22 disability;and

23 “(iv) benefits received under the So-
24 cial Security Act.”;

1 (2) by inserting after paragraph (17) the fol-
2 lowing:

3 “(17A) ‘estimated administrative expenses’
4 means 10 percent of projected payments under a
5 chapter 13 plan;”.

6 (c) DUTIES OF CHAPTER 7 TRUSTEE.—Section 704
7 of title 11, United States Code, is amended—

8 (1) by inserting “(a)” before “The trustee
9 shall—”; and

10 (2) by adding at the end the following:

11 “(b)(1) With respect to an individual debtor under
12 this chapter, the trustee shall review all materials filed by
13 the debtor and, not later than 10 days after the first meet-
14 ing of creditors, file with the court and the United States
15 trustee a statement as to whether the debtor’s case could
16 be presumed to be an abuse under section 707(b).

17 “(2) Not later than 60 days after receiving a state-
18 ment filed under paragraph (1), the United States trustee
19 or bankruptcy administrator shall—

20 “(A) file a statement setting forth the reasons
21 why the bankruptcy administrator does not believe
22 that such a motion would be appropriate or would
23 be prohibited because the debtor is a debtor of the
24 kind described in section 707(b)(14) of this title; or

1 “(B) file a motion to dismiss or convert under
2 section 707(b) if, based on the filing of such state-
3 ment with the court, the United States trustee or
4 bankruptcy administrator determines that the case
5 should be presumed to be an abuse under section
6 707(b) and the debtor’s current monthly income,
7 when multiplied by 12, is less than or equal to 100
8 percent of the highest national or applicable State or
9 State Metropolitan Statistical Area median family
10 income reported for a family of equal size, whichever
11 is greater, or in the case of a household of 1 person,
12 less than or equal to 100 percent of the highest na-
13 tional or State or Metropolitan Statistical Area me-
14 dian household income for 1 earner, whichever is
15 greater. For the purposes of determining whether a
16 motion would be appropriate to be filed, the United
17 States trustee shall consider adjustments to current
18 monthly income for income items received over the
19 most recent 180 days that are not reasonably ex-
20 pected to be reflected in future income, or expenses
21 likely to be due under a chapter 13 plan which are
22 not included in the required statement of the debt-
23 or’s expense. The debtor shall, at the request of the
24 United States trustee, provide documentation for
25 any current income items that are not reasonably ex-

1 pected to be reelected in future income, and a de-
2 tailed explanation of the circumstances that warrant
3 making such adjustments. If the United States
4 trustee determines that, after accounting for these
5 adjustments, the debtor's current monthly income,
6 which multiplied by 12, is less than or equal to 100
7 percent of the higher of the national, State, or Met-
8 ropolitan Statistical Area median family income re-
9 ported for a family of equal or lesser size, or in the
10 case of a household of 1 person, the national median
11 household income for 1 earner, then the case shall
12 be presumed not be an abuse of the previous of this
13 chapter.

14 For the purpose of this subsection, the national or applica-
15 ble State or Metropolitan Statistical Area median family
16 income reported for a household of more than 4 individ-
17 uals shall be that of a household of 4 individuals plus \$583
18 per month for each additional member of that household.

19 “(3) Paragraph (2) shall not be construed to preclude
20 the court or any other party who is eligible to file a motion
21 under section 707(b) from bringing such a motion.”.

22 (d) MEETING OF CREDITORS AND EQUITY SECURITY
23 HOLDERS.—Section 341 of title 11, United States Code,
24 is amended by adding the following new subsection:

1 “(e) The initial notice of the meeting of creditors
2 shall indicate whether the debtor’s current monthly income
3 is reported to be equal or greater than the applicable me-
4 dian income for purposes of subsection 707(b) of this
5 title.”.

6 (e) GUIDELINES FOR ASSESSING INCOME.—Section
7 586 of title 28, United States Code, is amended by adding
8 the following new subsection:

9 “(f) Not later than 1 year after the effective date of
10 this subsection, the Director of the Executive Office for
11 the United States Trustees shall issue guidelines to assist
12 in making assessment of whether income is not reasonably
13 necessary to be expended by a debtor for the maintenance
14 or support of the debtor, the dependents of the debtor,
15 and in a joint case, the spouse of the debtor if the spouse
16 is not otherwise a dependent. The director shall consult
17 with the Department of the Treasury, and others as need-
18 ed in developing the guidelines.”.

19 (f) Section 104, title 11, United States Code, as
20 amended by subsection ____ of this Act, is amended by
21 striking out “523(a)(2)(C), and 707(b)(3)” each place it
22 appears and inserting “523(a)(2)(C), and 707(b)” in lieu
23 thereof.

24 (g) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of chapter 7 of title 11, United States

1 Code, is amended by striking the item relating to section
2 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 13.”.

3 **SEC. 103. NOTICE OF ALTERNATIVES.**

4 Section 342(b) of title 11, United States Code, is
5 amended to read as follows:

6 “(b) Before the commencement of a case under this
7 title by an individual whose debts are primarily consumer
8 debts, the clerk shall give to such individual written notice
9 containing—

10 “(1) a brief description of—

11 “(A) chapters 7, 11, 12, and 13 and the
12 general purpose, benefits, and costs of proceed-
13 ing under each of those chapters; and

14 “(B) the types of services available from
15 credit counseling agencies; and

16 “(2) statements specifying that—

17 “(A) a person who knowingly and fraudu-
18 lently conceals assets or makes a false oath or
19 statement under penalty of perjury in connec-
20 tion with a bankruptcy case shall be subject to
21 fine, imprisonment, or both; and

22 “(B) all information supplied by a debtor
23 in connection with a bankruptcy case is subject
24 to examination by the Attorney General.”.

1 **SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING**
2 **TEST PROGRAM.**

3 (a) DEVELOPMENT OF FINANCIAL MANAGEMENT
4 AND TRAINING CURRICULUM AND MATERIALS.—The Di-
5 rector of the Executive Office for United States Trustees
6 (in this section referred to as the “Director”) shall consult
7 with a wide range of individuals who are experts in the
8 field of debtor education, including trustees who are ap-
9 pointed under chapter 13 of title 11 of the United States
10 Code and who operate financial management education
11 programs for debtors, and shall develop a financial man-
12 agement training curriculum and materials that can be
13 used to educate individual debtors on how to better man-
14 age their finances.

15 (b) TEST—(1) The Director shall select 6 judicial dis-
16 tricts of the United States in which to test the effective-
17 ness of the financial management training curriculum and
18 materials developed under subsection (a).

19 (2) For a 18-month period beginning not later than
20 270 days after the date of the enactment of this Act, such
21 curriculum and materials shall be, for the 6 judicial dis-
22 tricts selected under paragraph (1), used as the instruc-
23 tional course concerning personal financial management
24 for purposes of section 111 of this title.

1 (c) EVALUATION.—(1) During the 1-year period re-
2 ferred to in subsection (b), the Director shall evaluate the
3 effectiveness of—

4 (A) the financial management training curricu-
5 lum and materials developed under subsection (a);
6 and

7 (B) a sample of existing consumer education
8 programs such as those described in the Report of
9 the National Bankruptcy Review Commission (Octo-
10 ber 20, 1997) that are representative of consumer
11 education programs carried out by the credit indus-
12 try, by trustees serving under chapter 13 of title 11
13 of the United States Code, and by consumer coun-
14 selling groups.

15 (2) Not later than 3 months after concluding such
16 evaluation, the Director shall submit a report to the
17 Speaker of the House of Representatives and the Presi-
18 dent pro tempore of the Senate, for referral to the appro-
19 priate committees of the Congress, containing the findings
20 of the Director regarding the effectiveness of such curricu-
21 lum, such materials, and such programs and their costs.

1 **Subtitle B—Consumer Bankruptcy**
2 **Protections**

3 **SEC. 105. DEFINITIONS.**

4 (a) DEFINITIONS.—Section 101 of title 11, United
5 States Code, is amended—

6 (1) by inserting after paragraph (2) the follow-
7 ing:

8 “(3) ‘assisted person’ means any person whose
9 debts consist primarily of consumer debts and whose
10 non-exempt assets are less than \$150,000;”;

11 (2) by inserting after paragraph (4) the follow-
12 ing:

13 “(4A) ‘bankruptcy assistance’ means any goods
14 or services sold or otherwise provided to an assisted
15 person with the express or implied purpose of pro-
16 viding information, advice, counsel, document prepa-
17 ration or filing, or attendance at a creditors’ meeting
18 or appearing in a proceeding on behalf of another or
19 providing legal representation with respect to a pro-
20 ceeding under this title;”;

21 (3) by inserting after paragraph (12A) the fol-
22 lowing:

23 “(12B) ‘debt relief agency’ means any person
24 who provides any bankruptcy assistance to an as-
25 sisted person in return for the payment of money or

1 other valuable consideration, or who is a bankruptcy
2 petition preparer pursuant to section 110 of this
3 title, but does not include any person that is any of
4 the following or an officer, director, employee or
5 agent thereof—

6 “(A) any nonprofit organization which is
7 exempt from taxation under section 501(c)(3)
8 of the Internal Revenue Code of 1986;

9 “(B) any creditor of the person to the ex-
10 tent the creditor is assisting the person to re-
11 structure any debt owed by the person to the
12 creditor; or

13 “(C) any depository institution (as defined
14 in section 3 of the Federal Deposit Insurance
15 Act) or any Federal credit union or State credit
16 union (as those terms are defined in section
17 101 of the Federal Credit Union Act), or any
18 affiliate or subsidiary of such a depository insti-
19 tution or credit union;”.

20 (b) CONFORMING AMENDMENT.—In section
21 104(b)(1) by inserting “101(3),” after “sections”.

22 **SEC. 106. ENFORCEMENT.**

23 (a) ENFORCEMENT.—Subchapter II of chapter 5 of
24 title 11, United States Code, is amended by adding at the
25 end the following:

1 **“§ 526. Debt relief agency enforcement**

2 “(a) A debt relief agency shall not—

3 “(1) fail to perform any service which the debt
4 relief agency has told the assisted person or prospec-
5 tive assisted person the agency would provide that
6 person in connection with the preparation for or ac-
7 tivities during a proceeding under this title;

8 “(2) make any statement, or counsel or advise
9 any assisted person to make any statement in any
10 document filed in a proceeding under this title,
11 which is untrue and misleading or which upon the
12 exercise of reasonable care, should be known by the
13 debt relief agency to be untrue or misleading;

14 “(3) misrepresent to any assisted person or pro-
15 spective assisted person, directly or indirectly, af-
16 firmatively or by material omission, what services
17 the debt relief agency can reasonably expect to pro-
18 vide that person, or the benefits an assisted person
19 may obtain or the difficulties the person may experi-
20 ence if the person seeks relief in a proceeding pursu-
21 ant to this title; or

22 “(4) advise an assisted person or prospective
23 assisted person to incur more debt in contemplation
24 of that person filing a proceeding under this title or
25 in order to pay an attorney or bankruptcy petition
26 preparer fee or charge for services performed as part

1 of preparing for or representing a debtor in a pro-
2 ceeding under this title.”.

3 “(b) ASSISTED PERSON WAIVERS INVALID.—Any
4 waiver by any assisted person of any protection or right
5 provided by or under this section shall not be enforceable
6 against the debtor by any Federal or State court or any
7 other person, but may be enforced against a debt relief
8 agency.

9 “(c) NONCOMPLIANCE.—

10 “(1) Any contract between a debt relief agency
11 and an assisted person for bankruptcy assistance
12 which does not comply with the material require-
13 ments of this section shall be treated as void and
14 may not be enforced by any Federal or State court
15 or by any other person.

16 “(2) Any debt relief agency shall be liable to an
17 assisted person in the amount of any fees or charges
18 in connection with providing bankruptcy assistance
19 to such person which the debt relief agency has re-
20 ceived, for actual damages, and for reasonable attor-
21 neys’ fees and costs if the debt relief agency is
22 found, after notice and hearing, to have—

23 “(A) intentionally or negligently failed to
24 comply with any provision of this section with

1 respect to a bankruptcy case or related proceed-
2 ing of the assisted person;

3 “(B) provided bankruptcy assistance to an
4 assisted person in a case or related proceeding
5 which is dismissed or converted because of the
6 debt relief agency’s intentional or negligent fail-
7 ure to file bankruptcy papers, including papers
8 specified in section 521 of this title; or

9 “(C) intentionally or negligently dis-
10 regarded the material requirements of this title
11 or the Federal Rules of Bankruptcy Procedure
12 applicable to such debt relief agency.

13 “(3) In addition to such other remedies as are
14 provided under State law, whenever the chief law en-
15 forcement officer of a State, or an official or agency
16 designated by a State, has reason to believe that any
17 person has violated or is violating this section, the
18 State—

19 “(A) may bring an action to enjoin such
20 violation;

21 “(B) may bring an action on behalf of its
22 residents to recover the actual damages of as-
23 sisted persons arising from such violation, in-
24 cluding any liability under paragraph (2); and

1 “(C) in the case of any successful action
2 under subparagraph (A) or (B), shall be award-
3 ed the costs of the action and reasonable attor-
4 ney fees as determined by the court.

5 “(4) The United States District Court for any
6 district located in the State shall have concurrent ju-
7 risdiction of any action under subparagraph (A) or
8 (B) of paragraph (3).

9 “(5) Notwithstanding any other provision of
10 Federal law and in addition to any other remedy
11 provided under Federal or State law, if the court, on
12 its own motion or on the motion of the United
13 States trustee or the debtor, finds that a person in-
14 tentionally violated this section, or engaged in a
15 clear and consistent pattern or practice of violating
16 this section, the court may—

17 “(A) enjoin the violation of such section; or

18 “(B) impose an appropriate civil penalty
19 against such person.

20 “(c) RELATION TO STATE LAW.—This section shall
21 not annul, alter, affect or exempt any person subject to
22 those sections from complying with any law of any State
23 except to the extent that such law is inconsistent with
24 those sections, and then only to the extent of the inconsis-
25 tency.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tions for chapter 5 of title 11, United States Code, is
3 amended by inserting after the item relating to section
4 527, the following:

“526. Debt relief agency enforcement.”.

5 **SEC. 107. SENSE OF THE CONGRESS.**

6 It is the sense of the Congress that States should de-
7 velop curricula relating to the subject of personal finance,
8 designed for use in elementary and secondary schools.

9 **SEC. 108. DISCOURAGING ABUSIVE REAFFIRMATION PRAC-**
10 **TICES.**

11 (a) Section 524 of title 11, United States Code, is
12 amended—

13 (1) in subsection (c)(2)(B) by adding at the end
14 the following:

15 “(C)(i) such agreement contains a clear
16 and conspicuous statement advising the debtor
17 of the amount of the monthly payments, the
18 total amount payable and number of payments
19 if the payments are made according to schedule,
20 the amount of the total payment attributable to
21 principal, interest, late fees, and creditor’s at-
22 torneys fees, the interest rate, and the ways in
23 which terms differ from the original agreement;
24 and

1 “(ii) if the debt is secured, the agreement
2 is accompanied by a copy of the instrument cre-
3 ating the debt and any security interest or lien
4 and the documents necessary to show perfection
5 of the interest, and the agreement contains a
6 clear and conspicuous statement that advises
7 the debtor of the value of the collateral and the
8 date on which the lien will be released if pay-
9 ments are made according to schedule;”;

10 (2) in subsection (c)(6)(B), by inserting after
11 “real property” the following: “or is a debt described
12 in subsection (c)(7)”;

13 (3) by adding at the end of subsection (c) the
14 following:

15 “(7) in a case concerning an individual, if the
16 consideration for such agreement is based on whole
17 or in part on an unsecured consumer debt, or is
18 based on whole or in part upon a debt for an item
19 of personalty, the value of which at point of pur-
20 chase was \$500 or less, and in which the creditor as-
21 serts a security interest, the court approves such
22 agreement as—

23 “(A) in the best interest of the debtor in
24 light of the debtor’s income and expenses;

1 “(B) not imposing an undue hardship on
2 the debtor’s future ability of the debtor to pay
3 for the needs of children and other dependents
4 (including court ordered support);

5 “(C) not requiring the debtor to pay the
6 creditor’s attorney’s fees, expenses, or other
7 costs relating to the collection of the debt;

8 “(D) not agreed upon by the debtor to pro-
9 tect property necessary for the care and mainte-
10 nance of children or other dependents that
11 would have nominal value on repossession;

12 “(E) not the product of coercive threats or
13 actions by the creditor in the creditor’s course
14 of dealings with the debtor; and

15 “(F) not unfair because excessive in
16 amount as compared to the value of the collat-
17 eral;

18 (4) in subsection (d)(2) by striking “subsections
19 (c)(6)” and inserting “subsections (c)(6) and
20 (c)(7)”, and after “of this section,” by striking “if
21 the consideration for such agreement is based in
22 whole or in part on a consumer debt that is not se-
23 cured by real property of the debtor” and adding at
24 the end “as applicable”.

1 (b) Section 104 of title 11, United States Code, as
2 amended by subsection ____ of this Act, is amended by
3 striking out “523(a)(2)(C), and 707(b)(3)” each place it
4 appears and inserting “523(a)(2)(C), 524(e)(7), and
5 707(b)(3)” in lieu thereof.

6 **SEC. 109. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
7 **TION.**

8 (a) REDUCTION OF CLAIM.—Section 502 of title 11,
9 United States Code, is amended by adding at the end the
10 following:

11 “(k)(1) The court, on the motion of the debtor and
12 after a hearing, may reduce a claim filed under this sec-
13 tion based wholly on unsecured consumer debts by not
14 more than 20 percent, if the debtor can prove by clear
15 and convincing evidence that the claim was filed by a cred-
16 itor who unreasonably refused to negotiate a reasonable
17 alternative repayment schedule proposed by an approved
18 credit counseling agency acting on behalf of the debtor,
19 and if—

20 “(A) such offer was made within the period be-
21 ginning 60 days before the filing of the petition;

22 “(B) such offer provided for payment of at least
23 60 percent of the amount of the debt over a period
24 not to exceed the repayment period of the loan, or
25 a reasonable extension thereof; and

1 submit to Congress a report (including recommendations
2 for any appropriate legislation) regarding—

3 (1) whether a consumer engaging in an open-
4 end credit transaction (as defined pursuant to sec-
5 tion 103 of the Truth in lending Act) secured by the
6 consumer's principal dwelling is provided adequate
7 information under Federal law, including under sec-
8 tion 127A of the Truth in Lending Act, regarding
9 the tax deductibility of interest paid on such trans-
10 action; and

11 (2) whether a consumer engaging in a closed-
12 end credit transaction (as defined pursuant to sec-
13 tion 103 of the Truth in Lending Act) secured by
14 the consumer's principal dwelling is provided ade-
15 quate information regarding the tax deductibility of
16 interest paid on such transaction.

17 In conducting such study, the Board shall specifically con-
18 sider whether additional disclosures are necessary with re-
19 spect to such open-end or closed-end credit transactions
20 in which the amount of the credit extended exceeds the
21 fair market value of the dwelling.

22 (b) REGULATIONS.—If the Board determines that ad-
23 ditional disclosures are necessary in connection with trans-
24 actions described in subsection (a), the Board, pursuant
25 to its authority under the Truth in Lending Act, may pro-

1 mulgate regulations that would require such additional
2 disclosures. Any such regulations promulgated by the
3 Board under this section shall not take effect before the
4 end of the 36-month period after the date of the enact-
5 ment of this Act.

6 **SEC. 111. DUAL USE DEBIT CARD.**

7 (a) STUDY REQUIRED.—The Board of Governors of
8 the Federal Reserve System (in this section referred to
9 as the “Board”) shall conduct a study of existing protec-
10 tions provided to consumers to limit their liability for un-
11 authorized use of a debit card or similar access device.

12 (b) SPECIFIC CONSIDERATIONS.—In conducting the
13 study required by subsection (a), the Board shall specifi-
14 cally consider the following—

15 (1) the extent to which existing provisions of
16 section 909 of the Electronic Fund Transfer Act and
17 the Board’s implementing regulations provide ade-
18 quate unauthorized use liability protection for con-
19 sumers;

20 (2) the extent to which any voluntary industry
21 rules have enhanced the level of protection afforded
22 consumers in connection with such unauthorized use
23 liability; and

24 (3) whether amendments to the Electronic
25 Funds Transfer Act or the Board’s implementing

1 regulations thereto are necessary to provide ade-
2 quate protection for consumers in this area.

3 (c) REPORT AND REGULATIONS.—Not later than 2
4 years after the date of the enactment of this Act, the
5 Board shall make public a report on its findings with re-
6 spect to the adequacy of existing protections afforded con-
7 sumers with respect to unauthorized-use liability for debit
8 cards and similar access devices. If the Board determines
9 that such protections are inadequate, the Board, pursuant
10 to its authority under the Electronic Funds Transfer Act,
11 may issue regulations to address such inadequacy. Any
12 regulations issued by the Board shall not be effective be-
13 fore 36 months after the date of the enactment of this
14 Act.

15 **SEC. 112. DISCOURAGING RECKLESS LENDING PRACTICES.**

16 (a) LIMITING CLAIMS ARISING FROM IRRESPON-
17 SIBLE LENDING PRACTICES.—Section 502(b) of title 11,
18 United States Code, is amended—

19 (1) in paragraph (8) by striking “or” at the
20 end,

21 (2) in paragraph (9) by striking the period at
22 the end and inserting a semicolon; and

23 (3) by adding at the end the following:

24 “(10) the claim is for a consumer debt under
25 an open end credit plan (as defined in section 103

1 of the Truth in Lending Act) and before incurring
2 such debt under such plan the debtor was not in-
3 formed in writing in a clear and conspicuous manner
4 (or in the case of a worldwide web-based solicitation
5 to open a credit card account under such plan, at
6 the time of solicitation by the person making the so-
7 licitation to open such account)—

8 “(A) of the method of determining the re-
9 quired minimum payment amount, if a mini-
10 mum payment is required that is different from
11 the amount of any finance charge, and the
12 charges or penalties, if any, which may be im-
13 posed for failure by the obligor to pay the re-
14 quired finance charge or minimum payment
15 amount;

16 “(B) of repayment information that would
17 apply to the outstanding balance of the con-
18 sumer under the credit plan, including—

19 “(i) the required minimum monthly
20 payment on that balance, represented as
21 both a dollar figure and a percentage of
22 that balance;

23 “(ii) the number of months (rounded
24 to the nearest month) that it would take to
25 pay the entire amount of that current bal-

1 ance if the consumer pays only the re-
2 quired minimum monthly payments and if
3 no further advances are made;

4 “(iii) the total cost to the consumer,
5 including interest and principal payments,
6 of paying that balance in full if the con-
7 sumer pays only the required minimum
8 monthly payments and if no further ad-
9 vances are made; and

10 (iv) the following statement: ‘If your
11 current rate is a temporary introductory
12 rate, your total costs may be higher.’;

13 “(C) of the method for determining the re-
14 quired minimum payment amount to be paid
15 for each billing cycle, and the charge or penalty,
16 if any, to be imposed for any failure by the obli-
17 gor to pay the required minimum payment
18 amount;

19 “(D) of any charge that may be imposed
20 due to the failure of the obligor to make pay-
21 ment on or before a required payment due date,
22 the date that payment is due or, if different,
23 the date on which a late payment fee will be
24 charged, and that the terms and conditions of
25 such charge will be stated prominently in a con-

1 spicuous location on each billing statement, to-
2 gether with the amount of the charge to be im-
3 posed if payment is made after such date; and

4 “(E) in any application or solicitation for
5 a credit card issued under such plan that offers,
6 during an introductory period of less than 1
7 year, an annual percentage rate of interest
8 that—

9 “(i) is less than the annual percentage
10 rate of interest which will apply after the
11 end of such introductory period, of such
12 rate in a statement that includes the fol-
13 lowing: ‘The annual percentage rate of in-
14 terest applicable during the introductory
15 period is not the annual percentage rate
16 which will apply after the end of the intro-
17 ductory period. The permanent annual per-
18 centage rate will apply after [insert appli-
19 cable date] and will be [insert applicable
20 percentage rate].’ ; or

21 “(ii) varies in accordance with an
22 index, which is less than the current an-
23 nual percentage rate under the index which
24 will apply after the end of such period, of
25 such rate in a statement that includes the

1 following: ‘The annual percentage rate of
2 interest applicable during the introductory
3 period is not the annual percentage rate
4 which will apply after the end of the intro-
5 ductory period. The permanent annual per-
6 centage rate will be determined by an
7 index and will apply after [insert date]. If
8 the index which will apply after such date
9 were applied to your account today, the an-
10 nual percentage rate would be [insert ap-
11 plicable percentage rate].’ ;

12 “(11) such claim is for a debt that arose from
13 a credit card account under an open end credit plan
14 (as defined in section 103 of the Truth in Lending
15 Act, for which account a creditor imposed a fee
16 based on inactivity for the account during any period
17 in which no advances were made if the obligor main-
18 tains any outstanding balance and is charged a fi-
19 nance charge applicable to such balance;

20 “(12) such claim is for a debt that arose from
21 a credit card account for which a credit card that
22 was issued to or on behalf of, any individual who has
23 not attained 21 years of age except in response to
24 a written request or application to the card issuer to
25 open a credit card account containing—

1 “(A) the signature of the parent or guard-
2 ian of such individual indicating joint liability
3 for debts incurred by such individual in connec-
4 tion with the account before such individual
5 reaches the age of 21; or

6 “(B) a submission by such individual of fi-
7 nancial information indicating an independent
8 means of repaying any obligation arising from
9 the proposed extension of credit in connection
10 with the account;

11 “(13) such claim is for a debt that arose on an
12 account that a creditor cancelled, imposed a mini-
13 mum finance charge for any period (including any
14 annual period), imposed any fee in lieu of a mini-
15 mum finance charge, or imposed any other charge or
16 penalty with regard to such account or credit ex-
17 tended under such account solely on the basis that
18 any credit extended has been repaid in full before
19 the end of any grace period applicable with respect
20 to the extension of credit, excluding a flat annual fee
21 imposed on the consumer in advance of any annual
22 period to cover the cost of maintaining a credit card
23 account during such annual period without regard to
24 whether any credit is actually extended under such
25 account during such period, or the actual finance

1 charge applicable with respect to any credit extended
2 under such account during such annual period at the
3 annual percentage rate disclosed to the consumer in
4 accordance with this title for the period of time any
5 such credit is outstanding;

6 “(14) such claim is for a debt that arose from
7 an increase in any annual percentage rate of interest
8 (other than an increase due to the expiration of any
9 introductory percentage rate of interest or due solely
10 to a change in another rate of interest to which such
11 rate is indexed) applicable to any outstanding bal-
12 ance of credit under such plan may take effect be-
13 fore the beginning of the billing cycle which begins
14 not less than 15 days after the obligor receives no-
15 tice of such increase; and

16 “(15) that if an obligor referred to in para-
17 graph (14) cancels the credit card account before
18 the beginning of the billing cycle referred to in such
19 paragraph—

20 “(A) if the an annual percentage rate of
21 interest applicable after the cancellation with
22 respect to such outstanding balance on such ac-
23 count as of the date of cancellation exceeds any
24 annual percentage rate of interest applicable
25 with respect to such balance under the terms

1 and conditions in effect before the increase re-
2 ferred to in paragraph (14); and

3 “(B) the repayment of such outstanding
4 balance after the cancellation is not subject to
5 all other terms and conditions applicable with
6 respect to such account before the increase re-
7 ferred to in such paragraph;

8 (b) DEFINITION.—Section 101 of title 11, United
9 States Code, is amended by inserting after paragraph (9)
10 the following:

11 “(9A) ‘credit card’ includes any dual purpose or
12 multifunction card, including a stored-value card,
13 debit card, check card, check guarantee card, or pur-
14 chase-price discount card, that is connected with an
15 open end credit plan (as defined in section 103 of
16 the Truth in Lending Act) and can be used, either
17 on issuance or upon later activation, to obtain credit
18 directly or indirectly.”.

19 **SEC. 113. PROTECTION OF SAVINGS EARMARKED FOR THE**
20 **POSTSECONDARY EDUCATION OF CHILDREN.**

21 Section 522 of title 11, United States Code, is
22 amended—

23 (1) in subsection (b)(2)—

24 (A) in subparagraph (A) by striking “and”
25 at the end;

1 (B) in subparagraph (B) by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(C) except as provided in paragraph (n), funds
5 placed in an education individual retirement account
6 (as defined in section 530(b)(1) of the Internal Rev-
7 enue Code of 1986) not less than 365 days before
8 the date of entry of the order of relief but only to
9 the extent such funds—

10 “(i) are not pledged or promised to any en-
11 tity in connection with any extension of credit;
12 and

13 “(ii) are not excess contributions (as de-
14 scribed in section 4973(e) of the Internal Reve-
15 nue Code of 1986).”; and

16 (2) by adding at the end the following:

17 “(n) For purposes of subsection (b)(3)(C), funds
18 placed in an education individual retirement account shall
19 not be exempt under this subsection—

20 “(1) unless the designated beneficiary of such
21 account was a dependent child of the debtor for the
22 taxable year for which the funds were placed in such
23 account; and

24 “(2) to the extent such funds exceed—

1 “(A) \$50,000 in the aggregate in all such
2 accounts having the same designated bene-
3 ficiary; or

4 “(B) \$100,000 in the aggregate in all such
5 accounts attributable to all such dependent chil-
6 dren of the debtor.”.

7 **SEC. 114. EFFECT OF DISCHARGE.**

8 Section 524 of title 11, United States Code, is
9 amended by adding at the end the following:

10 “(i) The willful failure of a creditor to credit pay-
11 ments received under a plan confirmed under this title (in-
12 cluding a plan of reorganization confirmed under chapter
13 11 of this title) in the manner required by the plan (in-
14 cluding crediting the amounts required under the plan)
15 shall constitute a violation of any injunction under sub-
16 section (a)(2) which has arisen at the time of the failure.

17 “(j) An individual who is injured by the willful failure
18 of a creditor to comply with the requirements for a reaffir-
19 mation agreement under subsections (c) and (d), or by any
20 willful violation of the injunction under subsection (a)(2),
21 shall be entitled to recover—

22 “(1) the greater of—

23 “(A) the amount of actual damages; or

24 “(B) \$1,000; and

25 “(2) costs and attorneys’ fees.”.

1 **SEC. 115. LIMITING TRUSTEE LIABILITY.**

2 (a) QUALIFICATION OF TRUSTEE.—Section 322 of
3 title 11, United States Code, is amended—

4 (1) in subsection (a) by adding at the end the
5 following:

6 “The trustee in a case under this title is not liable
7 personally or on such trustee’s bond for acts taken
8 within the scope of the trustee’s duties or authority
9 as delineated by other sections of this title or by
10 order of the court, except to the extent that the
11 trustee acted with gross negligence. Gross negligence
12 shall be defined as reckless indifference or deliberate
13 disregard of the trustee’s fiduciary duty.”; and

14 (2) in subsection (c) by inserting “for any acts
15 within the scope of the trustee’s authority defined in
16 subsection (a)” before the period at the end.

17 (b) ROLE AND CAPACITY OF TRUSTEE.—Section 323
18 of title 11, United States Code, is amended—

19 (1) in subsection (b) by inserting at the end the
20 following: “in the trustee’s official capacity as rep-
21 resentative of the estate” before the period at the
22 end; and

23 (2) by adding at the end the following:

24 “(c) The trustee in a case under this title may not
25 be sued, either personally, in a representative capacity, or
26 against the trustee’s bond in favor of the United States—

1 “(1) for acts taken in furtherance of the trust-
2 ee’s duties or authority in a case in which the debtor
3 is subsequently determined to be ineligible for relief
4 under the chapter in which the trustee was ap-
5 pointed; or

6 “(2) for the dissemination of statistics and
7 other information regarding a case or cases, unless
8 the trustee has actual knowledge that the informa-
9 tion is false.

10 “(d) The trustee in a case under this title may not
11 be sued in a personal capacity without leave of the bank-
12 ruptcy court in which the case is pending.”.

13 **SEC. 116. REINFORCE THE FRESH START.**

14 (a) RESTORATION OF AN EFFECTIVE DISCHARGE.—
15 Section 523(a)(17) of title 11, United States Code, is
16 amended—

17 (1) by striking “by a court” and inserting “by
18 any court”,

19 (2) by striking “section 1915(b) or (f)” and in-
20 serting “subsection (b) or (f)(2) of section 1915”,
21 and

22 (3) by inserting “(or a similar non-Federal
23 law)” after “title 28” each place it appears.

1 **SEC. 117. DISCOURAGING BAD FAITH REPEAT FILINGS.**

2 Section 362(c) of title 11, United States Code, is
3 amended—

4 (1) in paragraph (1) by striking “and” at the
5 end;

6 (2) in paragraph (2) by striking the period at
7 the end and inserting a semicolon; and

8 (3) by adding at the end the following new
9 paragraphs:

10 “(3) If a single or joint case is filed by or
11 against an individual debtor under chapter 7, 11, or
12 13 (other than a case refiled under a chapter other
13 than chapter 7 after dismissal under section 707(b)
14 of this title), and if a single or joint case of the debt-
15 or was pending within the previous 1-year period but
16 was dismissed, the stay under subsection (a) with re-
17 spect to any action taken with respect to a debt or
18 property securing such debt or with respect to any
19 lease will terminate with respect to the debtor on the
20 30th day after the filing of the later case. Upon mo-
21 tion by a party in interest for continuation of the
22 automatic stay and upon notice and a hearing, the
23 court may extend the stay in particular cases as to
24 any or all creditors (subject to such conditions or
25 limitations as the court may then impose) after no-
26 tice and a hearing completed before the expiration of

1 the 30-day period only if the party in interest dem-
2 onstrates that the filing of the later case is in good
3 faith as to the creditors to be stayed. A case is pre-
4 sumptively filed not in good faith (but such pre-
5 sumption may be rebutted by clear and convincing
6 evidence to the contrary)—

7 “(A) as to all creditors if—

8 “(i) more than 1 previous case under
9 any of chapter 7, 11, or 13 in which the
10 individual was a debtor was pending within
11 such 1-year period;

12 “(ii) a previous case under any of
13 chapters 7, 11, or 13 in which the individ-
14 ual was a debtor was dismissed within
15 such 1-year period, after the debtor failed
16 to file or amend the petition or other docu-
17 ments as required by this title or the court
18 without substantial excuse (but mere inad-
19 vertence or negligence shall not be sub-
20 stantial excuse unless the dismissal was
21 caused by the negligence of the debtor’s at-
22 torney), failed to provide adequate protec-
23 tion as ordered by the court, or failed to
24 perform the terms of a plan confirmed by
25 the court; or

1 “(iii) there has not been a substantial
2 change in the financial or personal affairs
3 of the debtor since the dismissal of the
4 next most previous case under any of chap-
5 ters 7, 11, or 13 of this title, or there is
6 not any other reason to conclude that the
7 later case will be concluded, if a case under
8 chapter 7 of this title, with a discharge,
9 and if a chapter 11 or 13 case, a con-
10 firmed plan which will be fully performed;

11 “(B) as to any creditor that commenced an
12 action under subsection (d) in a previous case
13 in which the individual was a debtor if, as of
14 the date of dismissal of such case, that action
15 was still pending or had been resolved by termi-
16 nating, conditioning, or limiting the stay as to
17 actions of such creditor.

18 “(4) If a single or joint case is filed by or
19 against an individual debtor under this title (other
20 than a case refiled under a chapter other than chap-
21 ter 7 after a dismissal under section 707(b) of this
22 title), and if 2 or more single or joint cases of the
23 debtor were pending within the previous year but
24 were dismissed, the stay under subsection (a) will
25 not go into effect upon the filing of the later case.

1 On request of a party in interest, the court shall
2 promptly enter an order confirming that no stay is
3 in effect. If a party in interest requests within 30
4 days of the filing of the later case, the court may
5 order the stay to take effect in the case as to any
6 or all creditors (subject to such conditions or limita-
7 tions as the court may impose), after notice and
8 hearing, only if the party in interest demonstrates
9 that the filing of the later case is in good faith as
10 to the creditors to be stayed. A stay imposed pursu-
11 ant to the preceding sentence will be effective on the
12 date of entry of the order allowing the stay to go
13 into effect. A case is presumptively not filed in good
14 faith (but such presumption may be rebutted by
15 clear and convincing evidence to the contrary)—

16 “(A) as to all creditors if—

17 “(i) 2 or more previous cases under
18 this title in which the individual was a
19 debtor were pending within the 1-year pe-
20 riod;

21 “(ii) a previous case under this title in
22 which the individual was a debtor was dis-
23 missed within the time period stated in
24 this paragraph after the debtor failed to
25 file or amend the petition or other docu-

1 ments as required by this title or the court
2 without substantial excuse (but mere inad-
3 vertence or negligence shall not be sub-
4 stantial excuse unless the dismissal was
5 caused by the negligence of the debtor's at-
6 torney), failed to provide adequate protec-
7 tion as ordered by the court, or failed to
8 perform the terms of a plan confirmed by
9 the court; or

10 “(iii) there has not been a substantial
11 change in the financial or personal affairs
12 of the debtor since the dismissal of the
13 next most previous case under this title, or
14 there is not any other reason to conclude
15 that the later case will be concluded, if a
16 case under chapter 7, with a discharge,
17 and if a case under chapter 11 or 13, with
18 a confirmed plan that will be fully per-
19 formed; or

20 “(B) as to any creditor that commenced an
21 action under subsection (d) in a previous case
22 in which the individual was a debtor if, as of
23 the date of dismissal of such case, such action
24 was still pending or had been resolved by termi-

1 nating, conditioning, or limiting the stay as to
2 action of such creditor.”.

3 **SEC. 118. CURBING ABUSIVE FILINGS.**

4 (a) IN GENERAL.—Section 362(d) of title 11, United
5 States Code, is amended—

6 (1) in paragraph (2), by striking “or” at the
7 end;

8 (2) in paragraph (3), by striking the period at
9 the end and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(4) with respect to a stay of an act against
12 real property under subsection (a), by a creditor
13 whose claim is secured by an interest in such real
14 estate, if the court finds that the filing of the bank-
15 ruptcy petition was part of a scheme to delay,
16 hinder, and defraud creditors that involved either—

17 “(A) transfer of all or part ownership of,
18 or other interest in, the real property without
19 the consent of the secured creditor or court ap-
20 proval; or

21 “(B) multiple bankruptcy filings affecting
22 the real property.

23 If recorded in compliance with applicable State laws gov-
24 erning notices of interests or liens in real property, an
25 order entered pursuant to this subsection shall be binding

1 in any other case under this title purporting to affect the
2 real property filed not later than 2 years after that record-
3 ing, except that a debtor in a subsequent case may move
4 for relief from such order based upon changed cir-
5 cumstances or for good cause shown, after notice and a
6 hearing. Any Federal, State, or local governmental unit
7 which accepts notices of interests or liens in real property
8 shall accept any certified copy of an order described in
9 this subsection for indexing and recording.”.

10 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
11 United States Code, is amended—

12 (1) in paragraph (17), by striking “or” at the
13 end;

14 (2) in paragraph (18) by striking the period at
15 the end and inserting a semicolon; and

16 (3) by inserting after paragraph (18) the fol-
17 lowing:

18 “(19) under subsection (a), of any act to en-
19 force any lien against or security interest in real
20 property following the entry of an order under sec-
21 tion 362(d)(4) of this title as to that property in any
22 prior bankruptcy case for a period of 2 years after
23 entry of such an order. The debtor in a subsequent
24 case, however, may move the court for relief from
25 such order based upon changed circumstances or for

1 other good cause shown (consistent with the stand-
2 ards for good faith in subsection (c)), after notice
3 and a hearing; or

4 “(20) under subsection (a), of any act to en-
5 force any lien against or security interest in real
6 property—

7 “(A) if the debtor is ineligible under sec-
8 tion 109(g) of this title to be a debtor in a
9 bankruptcy case; or

10 “(B) if the bankruptcy case was filed in
11 violation of a bankruptcy court order in a prior
12 bankruptcy case prohibiting the debtor from
13 being a debtor in another bankruptcy case.”.

14 **SEC. 119. DEBTOR RETENTION OF PERSONAL PROPERTY**
15 **SECURITY.**

16 Title 11, United States Code, is amended—

17 (1) in section 521—

18 (A) in paragraph (4) by striking “, and”
19 at the end and inserting a semicolon;

20 (B) in paragraph (5) by striking the period
21 at the end and inserting “; and”; and

22 (C) by adding at the end the following:

23 “(6) in an individual case under chapter 7 of
24 this title, not retain possession of personal property
25 as to which a creditor has an allowed claim for the

1 purchase price secured in whole or in part by an in-
2 terest in that personal property unless, in the case
3 of an individual debtor, the debtor takes 1 of the fol-
4 lowing actions within 45 days after the first meeting
5 of creditors under section 341(a)—

6 “(A) enters into an agreement with the
7 creditor pursuant to section 524(c) of this title
8 with respect to the claim secured by such prop-
9 erty; or

10 “(B) redeems such property from the secu-
11 rity interest pursuant to section 722 of this
12 title.

13 “If the debtor fails to so act within the 45-day pe-
14 riod, the stay under section 362(a) of this title is
15 terminated with respect to the personal property of
16 the estate or of the debtor which is affected, such
17 property shall no longer be property of the estate,
18 and the creditor may take whatever action as to
19 such property as is permitted by applicable nonbank-
20 ruptcy law, unless the court determines on the mo-
21 tion of the trustee brought before the expiration of
22 such 45-day period, and after notice and a hearing,
23 that such property is of consequential value or bene-
24 fit to the estate, orders appropriate adequate protec-
25 tion of the creditor’s interest, and orders the debtor

1 to deliver any collateral in the debtor's possession to
2 the trustee.”; and

3 (2) in section 722 by inserting “in full at the
4 time of redemption” before the period at the end.

5 **SEC. 120. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
6 **DEBTOR DOES NOT COMPLETE INTENDED**
7 **SURRENDER OF CONSUMER DEBT COLLAT-**
8 **ERAL.**

9 Title 11, United States Code, is amended as
10 follows—

11 (1) in section 362—

12 (A) by striking “(e), and (f)” in subsection
13 (c) and inserting in lieu thereof “(e), (f), and
14 (h)”;

15 (B) by redesignating subsection (h) as sub-
16 section (i) and by inserting after subsection (g)
17 the following:

18 “(h) In an individual case pursuant to chapter 7, 11,
19 or 13 the stay provided by subsection (a) is terminated
20 with respect to personal property of the estate or of the
21 debtor securing in whole or in part a claim, or subject
22 to an unexpired lease, and such personal property shall
23 no longer be property of the estate if the debtor fails with-
24 in the applicable time set by section 521(a)(2) of this
25 title—

1 “(1) to file timely any statement of intention
2 required under section 521(a)(2) of this title with
3 respect to that property or to indicate therein that
4 the debtor will either surrender the property or re-
5 tain it and, if retaining it, either redeem the prop-
6 erty pursuant to section 722 of this title, reaffirm
7 the debt it secures pursuant to section 524(c) of this
8 title, or assume the unexpired lease pursuant to sec-
9 tion 365(p) of this title if the trustee does not do
10 so, as applicable; or

11 “(2) to take timely the action specified in that
12 statement of intention, as it may be amended before
13 expiration of the period for taking action, unless the
14 statement of intention specifies reaffirmation and
15 the creditor refuses to reaffirm on the original con-
16 tract terms;

17 unless the court determines on the motion of the trustee
18 filed before the expiration of the applicable time set by
19 section 521(a)(2), and after notice and a hearing, that
20 such property is of consequential value or benefit to the
21 estate, orders appropriate adequate protection of the
22 creditor’s interest, and orders the debtor to deliver any
23 collateral in the debtor’s possession to the trustee. If the
24 court does not so determine an order, the stay shall termi-

1 nate upon the conclusion of the proceeding on the mo-
2 tion.”; and

3 (2) in section 521, as amended by sections 603
4 and 604—

5 (A) in paragraph (2) by striking “con-
6 sumer”;

7 (B) in paragraph (2)(B)—

8 (i) by striking “forty-five days after
9 the filing of a notice of intent under this
10 section” and inserting “30 days after the
11 first date set for the meeting of creditors
12 under section 341(a) of this title”; and

13 (ii) by striking “forty-five day” the
14 second place it appears and inserting “30-
15 day”;

16 (C) in paragraph (2)(C) by inserting “ex-
17 cept as provided in section 362(h) of this title”
18 before the semicolon; and

19 (D) by inserting after subsection (b) the
20 following:

21 “(c) If the debtor fails timely to take the action speci-
22 fied in subsection (a)(6) of this section, or in paragraphs
23 (1) and (2) of section 362(h) of this title, with respect
24 to property which a lessor or bailor owns and has leased,
25 rented, or bailed to the debtor or as to which a creditor

1 holds a security interest not otherwise voidable under sec-
2 tion 522(f), 544, 545, 547, 548, or 549 of this title, noth-
3 ing in this title shall prevent or limit the operation of a
4 provision in the underlying lease or agreement which has
5 the effect of placing the debtor in default under such lease
6 or agreement by reason of the occurrence, pendency, or
7 existence of a proceeding under this title or the insolvency
8 of the debtor. Nothing in this subsection shall be deemed
9 to justify limiting such a provision in any other cir-
10 cumstance.”.

11 **SEC. 121. GIVING SECURED CREDITORS FAIR TREATMENT**

12 **IN CHAPTER 13.**

13 Section 1325(a)(5)(B)(i) of title 11, United States
14 Code, is amended to read as follows:

15 “(i) the plan provides that the holder of
16 such claim retain the lien securing such claim
17 until the earlier of payment of the underlying
18 debt determined under nonbankruptcy law or
19 discharge under section 1328 of this title, and
20 that if the case under this chapter is dismissed
21 or converted without completion of the plan,
22 such lien shall also be retained by such holder
23 to the extent recognized by applicable nonbank-
24 ruptey law; and”.

1 **SEC. 123. FAIR VALUATION OF COLLATERAL.**

2 Section 506(a) of title 11, United States Code, is
3 amended by adding at the end the following:

4 “In the case of an individual debtor under chapters 7 and
5 13, such value with respect to personal property securing
6 an allowed claim shall be determined based on the replace-
7 ment value of such property as of the date of filing the
8 petition without deduction for costs of sale or marketing.
9 With respect to property acquired for personal, family, or
10 household purpose, replacement value shall mean the price
11 a retail merchant would charge for property of that kind
12 considering the age and condition of the property at the
13 time value is determined.”.

14 **SEC. 124. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.**

15 Section 522(b)(2)(A) of title 11, United States Code,
16 is amended—

17 (1) by striking “180” and inserting “730”; and

18 (2) by striking “, or for a longer portion of
19 such 180-day period than in any other place” and
20 inserting “or if the debtor’s domicile has not been
21 located at a single State for such 730-day period,
22 the place in which the debtor’s domicile was located
23 for 180 days immediately preceding the 730-day pe-
24 riod or for a longer portion of such 180-day period
25 than in any other place”.

1 **SEC. 125. RESTRICTIONS ON CERTAIN EXEMPT PROPERTY**
2 **OBTAINED THROUGH FRAUD.**

3 Section 522 of title 11, United States Code, as
4 amended by section 113, is amended—

5 (1) in subsection (b)(2)(A) by inserting “sub-
6 ject to subsection (o),” before “any property”; and

7 (2) by adding at the end the following:

8 “(o) For purposes of subsection (b)(3)(A) and not-
9 withstanding subsection (a), the value of an interest in—

10 “(1) real or personal property that the debtor
11 or a dependent of the debtor uses as a residence;

12 “(2) a cooperative that owns property that the
13 debtor or a dependent of the debtor uses as a resi-
14 dence; or

15 “(3) a burial plot for the debtor or a dependent
16 of the debtor;

17 shall be reduced to the extent such value is attributable
18 to any portion of any property that the debtor disposed
19 of in the 730-day period ending of the date of the filing
20 of the petition, with the intent to hinder, delay, or defraud
21 a creditor and that the debtor could not exempt, or that
22 portion that the debtor could not exempt, under subsection
23 (b) if on such date the debtor had held the property so
24 disposed of.”.

1 **SEC. 126. ROLLING STOCK EQUIPMENT.**

2 (a) IN GENERAL.—Section 1168 of title 11, United
3 States Code, is amended to read as follows:

4 **“§ 1168. Rolling stock equipment**

5 “(a)(1) The right of a secured party with a security
6 interest in or of a lessor or conditional vendor of equip-
7 ment described in paragraph (2) to take possession of such
8 equipment in compliance with an equipment security
9 agreement, lease, or conditional sale contract, and to en-
10 force any of its other rights or remedies under such secu-
11 rity agreement, lease, or conditional sale contract, to sell,
12 lease, or otherwise retain or dispose of such equipment,
13 is not limited or otherwise affected by any other provision
14 of this title or by any power of the court, except that the
15 right to take possession and enforce those other rights and
16 remedies shall be subject to section 362 of this title, if—

17 “(A) before the date that is 60 days after the
18 date of commencement of a case under this chapter,
19 the trustee, subject to the court’s approval, agrees to
20 perform all obligations of the debtor under such se-
21 curity agreement, lease, or conditional sale contract;
22 and

23 “(B) any default, other than a default of a kind
24 described in section 365(b)(2) of this title, under
25 such security agreement, lease, or conditional sale
26 contract—

1 “(i) that occurs before the date of com-
2 mencement of the case and is an event of de-
3 fault therewith is cured before the expiration of
4 such 60-day period;

5 “(ii) that occurs or becomes an event of
6 default after the date of commencement of the
7 case and before the expiration of such 60-day
8 period is cured before the later of—

9 “(I) the date that is 30 days after the
10 date of the default or event of the default;

11 or

12 “(II) the expiration of such 60-day
13 period; and

14 “(iii) that occurs on or after the expiration
15 of such 60-day period is cured in accordance
16 with the terms of such security agreement,
17 lease, or conditional sale contract, if cure is per-
18 mitted under that agreement, lease, or condi-
19 tional sale contract.

20 “(2) The equipment described in this paragraph—

21 “(A) is rolling stock equipment or accessories
22 used on rolling stock equipment, including super-
23 structures or racks, that is subject to a security in-
24 terest granted by, leased to, or conditionally sold to
25 a debtor; and

1 “(B) includes all records and documents relat-
2 ing to such equipment that are required, under the
3 terms of the security agreement, lease, or conditional
4 sale contract, that is to be surrendered or returned
5 by the debtor in connection with the surrender or re-
6 turn of such equipment.

7 “(3) Paragraph (1) applies to a secured party, lessor,
8 or conditional vendor acting in its own behalf or acting
9 as trustee or otherwise in behalf of another party.

10 “(b) The trustee and the secured party, lessor, or
11 conditional vendor whose right to take possession is pro-
12 tected under subsection (a) may agree, subject to the
13 court’s approval, to extend the 60-day period specified in
14 subsection (a)(1).

15 “(c)(1) In any case under this chapter, the trustee
16 shall immediately surrender and return to a secured party,
17 lessor, or conditional vendor, described in subsection
18 (a)(1), equipment described in subsection (a)(2), if at any
19 time after the date of commencement of the case under
20 this chapter such secured party, lessor, or conditional ven-
21 dor is entitled pursuant to subsection (a)(1) to take pos-
22 session of such equipment and makes a written demand
23 for such possession of the trustee.

24 “(2) At such time as the trustee is required under
25 paragraph (1) to surrender and return equipment de-

1 scribed in subsection (a)(2), any lease of such equipment,
2 and any security agreement or conditional sale contract
3 relating to such equipment, if such security agreement or
4 conditional sale contract is an executory contract, shall be
5 deemed rejected.

6 “(d) With respect to equipment first placed in service
7 on or prior to October 22, 1994, for purposes of this
8 section—

9 “(1) the term ‘lease’ includes any written agree-
10 ment with respect to which the lessor and the debt-
11 or, as lessee, have expressed in the agreement or in
12 a substantially contemporaneous writing that the
13 agreement is to be treated as a lease for Federal in-
14 come tax purposes; and

15 “(2) the term ‘security interest’ means a pur-
16 chase-money equipment security interest.

17 “(e) With respect to equipment first placed in service
18 after October 22, 1994, for purposes of this section, the
19 term ‘rolling stock equipment’ includes rolling stock equip-
20 ment that is substantially rebuilt and accessories used on
21 such equipment.”.

22 (b) AIRCRAFT EQUIPMENT AND VESSELS.—Section
23 1110 of title 11, United States Code, is amended to read
24 as follows:

1 **“§ 1110. Aircraft equipment and vessels**

2 “(a)(1) Except as provided in paragraph (2) and sub-
3 ject to subsection (b), the right of a secured party with
4 a security interest in equipment described in paragraph
5 (3), or of a lessor or conditional vendor of such equipment,
6 to take possession of such equipment in compliance with
7 a security agreement, lease, or conditional sale contract,
8 and to enforce any of its other rights or remedies, under
9 such security agreement, lease, or conditional sale con-
10 tract, to sell, lease, or otherwise retain or dispose of such
11 equipment, is not limited or otherwise affected by any
12 other provision of this title or by any power of the court.

13 “(2) The right to take possession and to enforce the
14 other rights and remedies described in paragraph (1) shall
15 be subject to section 362 of this title if—

16 “(A) before the date that is 60 days after the
17 date of the order for relief under this chapter, the
18 trustee, subject to the approval of the court, agrees
19 to perform all obligations of the debtor under such
20 security agreement, lease, or conditional sale con-
21 tract; and

22 “(B) any default, other than a default of a kind
23 specified in section 365(b)(2) of this title, under
24 such security agreement, lease, or conditional sale
25 contract—

1 “(i) that occurs before the date of the
2 order is cured before the expiration of such 60-
3 day period;

4 “(ii) that occurs after the date of the order
5 and before the expiration of such 60-day period
6 is cured before the later of—

7 “(I) the date that is 30 days after the
8 date of the default; or

9 “(II) the expiration of such 60-day
10 period; and

11 “(iii) that occurs on or after the expiration
12 of such 60-day period is cured in compliance
13 with the terms of such security agreement,
14 lease, or conditional sale contract, if a cure is
15 permitted under that agreement, lease, or con-
16 tract.

17 “(3) The equipment described in this paragraph—

18 “(A) is—

19 “(i) an aircraft, aircraft engine, propeller,
20 appliance, or spare part (as defined in section
21 40102 of title 49) that is subject to a security
22 interest granted by, leased to, or conditionally
23 sold to a debtor that, at the time such trans-
24 action is entered into, holds an air carrier oper-
25 ating certificate issued pursuant to chapter 447

1 of title 49 for aircraft capable of carrying 10 or
2 more individuals or 6,000 pounds or more of
3 cargo; or

4 “(ii) a documented vessel (as defined in
5 section 30101(1) of title 46) that is subject to
6 a security interest granted by, leased to, or con-
7 ditionally sold to a debtor that is a water car-
8 rier that, at the time such transaction is en-
9 tered into, holds a certificate of public conven-
10 ence and necessity or permit issued by the De-
11 partment of Transportation; and

12 “(B) includes all records and documents relat-
13 ing to such equipment that are required, under the
14 terms of the security agreement, lease, or conditional
15 sale contract, to be surrendered or returned by the
16 debtor in connection with the surrender or return of
17 such equipment.

18 “(4) Paragraph (1) applies to a secured party, lessor,
19 or conditional vendor acting in its own behalf or acting
20 as trustee or otherwise in behalf of another party.

21 “(b) The trustee and the secured party, lessor, or
22 conditional vendor whose right to take possession is pro-
23 tected under subsection (a) may agree, subject to the ap-
24 proval of the court, to extend the 60-day period specified
25 in subsection (a)(1).

1 “(c)(1) In any case under this chapter, the trustee
2 shall immediately surrender and return to a secured party,
3 lessor, or conditional vendor, described in subsection
4 (a)(1), equipment described in subsection (a)(3), if at any
5 time after the date of the order for relief under this chap-
6 ter such secured party, lessor, or conditional vendor is en-
7 titled pursuant to subsection (a)(1) to take possession of
8 such equipment and makes a written demand for such pos-
9 session to the trustee.

10 “(2) At such time as the trustee is required under
11 paragraph (1) to surrender and return equipment de-
12 scribed in subsection (a)(3), any lease of such equipment,
13 and any security agreement or conditional sale contract
14 relating to such equipment, if such security agreement or
15 conditional sale contract is an executory contract, shall be
16 deemed rejected.

17 “(d) With respect to equipment first placed in service
18 on or before October 22, 1994, for purposes of this
19 section—

20 “(1) the term ‘lease’ includes any written agree-
21 ment with respect to which the lessor and the debt-
22 or, as lessee, have expressed in the agreement or in
23 a substantially contemporaneous writing that the
24 agreement is to be treated as a lease for Federal in-
25 come tax purposes; and

1 “(2) the term ‘security interest’ means a pur-
2 chase-money equipment security interest.”.

3 **SEC. 127. DISCHARGE UNDER CHAPTER 13.**

4 Section 1328(a) of title 11, United States Code, is
5 amended by striking paragraphs (1) through (3) and in-
6 serting the following:

7 “(1) provided for under section 1322(b)(5) of
8 this title;

9 “(2) of the kind specified in paragraph (2), (4),
10 (3)(B), (5), (8), or (9) of section 523(a) of this title;

11 “(3) for restitution, or a criminal fine, included
12 in a sentence on the debtor’s conviction of a crime;
13 or

14 “(4) for restitution, or damages, awarded in a
15 civil action against the debtor as a result of willful
16 or malicious injury by the debtor that caused per-
17 sonal injury to an individual or the death of an indi-
18 vidual.”.

19 **SEC. 128. BANKRUPTCY JUDGESHIPS.**

20 (a) **SHORT TITLE.**—This section may be cited as the
21 “Bankruptcy Judgeship Act of 1999”.

22 (b) **TEMPORARY JUDGESHIPS.**—

23 (1) **APPOINTMENTS.**—The following judgeship
24 positions shall be filled in the manner prescribed in
25 section 152(a)(1) of title 28, United States Code, for

1 the appointment of bankruptcy judges provided for
2 in section 152(a)(2) of such title:

3 (A) One additional bankruptcy judgeship
4 for the eastern district of California.

5 (B) Four additional bankruptcy judgeships
6 for the central district of California.

7 (C) One additional bankruptcy judgeship
8 for the southern district of Florida.

9 (D) Two additional bankruptcy judgeships
10 for the district of Maryland.

11 (E) One additional bankruptcy judgeship
12 for the eastern district of Michigan.

13 (F) One additional bankruptcy judgeship
14 for the southern district of Mississippi.

15 (G) One additional bankruptcy judgeship
16 for the district of New Jersey.

17 (H) One additional bankruptcy judgeship
18 for the eastern district of New York.

19 (I) One additional bankruptcy judgeship
20 for the northern district of New York.

21 (J) One additional bankruptcy judgeship
22 for the southern district of New York.

23 (K) One additional bankruptcy judgeship
24 for the eastern district of Pennsylvania.

1 (L) One additional bankruptcy judgeship
2 for the middle district of Pennsylvania.

3 (M) One additional bankruptcy judgeship
4 for the western district of Tennessee.

5 (N) One additional bankruptcy judgeship
6 for the eastern district of Virginia.

7 (2) VACANCIES.—The first vacancy occurring in
8 the office of a bankruptcy judge in each of the judi-
9 cial districts set forth in paragraph (1) that—

10 (A) results from the death, retirement, res-
11 ignation, or removal of a bankruptcy judge; and

12 (B) occurs 5 years or more after the ap-
13 pointment date of a bankruptcy judge ap-
14 pointed under paragraph (1);

15 shall not be filled.

16 (c) EXTENSIONS.—

17 (1) IN GENERAL.—The temporary bankruptcy
18 judgeship positions authorized for the northern dis-
19 trict of Alabama, the district of Delaware, the dis-
20 trict of Puerto Rico, the district of South Carolina,
21 and the eastern district of Tennessee under section
22 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy
23 Judgeship Act of 1992 (28 U.S.C. 152 note) are ex-
24 tended until the first vacancy occurring in the office
25 of a bankruptcy judge in the applicable district re-

1 sulting from the death, retirement, resignation, or
2 removal of a bankruptcy judge and occurring—

3 (A) 8 years or more after November 8,
4 1993, with respect to the northern district of
5 Alabama;

6 (B) 10 years or more after October 28,
7 1993, with respect to the district of Delaware;

8 (C) 8 years or more after August 29,
9 1994, with respect to the district of Puerto
10 Rico;

11 (D) 8 years or more after June 27, 1994,
12 with respect to the district of South Carolina;
13 and

14 (E) 8 years or more after November 23,
15 1993, with respect to the eastern district of
16 Tennessee.

17 (2) APPLICABILITY OF OTHER PROVISIONS.—

18 All other provisions of section 3 of the Bankruptcy
19 Judgeship Act of 1992 remain applicable to such
20 temporary judgeship position.

21 (d) TECHNICAL AMENDMENT.—The first sentence of
22 section 152(a)(1) of title 28, United States Code, is
23 amended to read as follows: “Each bankruptcy judge to
24 be appointed for a judicial district as provided in para-
25 graph (2) shall be appointed by the United States court

1 of appeals for the circuit in which such district is lo-
2 cated.”.

3 (e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—

4 Section 156 of title 28, United States Code, is amended
5 by adding at the end the following new subsection:

6 “(g)(1) In this subsection, the term ‘travel
7 expenses’—

8 “(A) means the expenses incurred by a bank-
9 ruptcy judge for travel that is not directly related to
10 any case assigned to such bankruptcy judge; and

11 “(B) shall not include the travel expenses of a
12 bankruptcy judge if—

13 “(i) the payment for the travel expenses is
14 paid by such bankruptcy judge from the per-
15 sonal funds of such bankruptcy judge; and

16 “(ii) such bankruptcy judge does not re-
17 ceive funds (including reimbursement) from the
18 United States or any other person or entity for
19 the payment of such travel expenses.

20 “(2) Each bankruptcy judge shall annually submit
21 the information required under paragraph (3) to the chief
22 bankruptcy judge for the district in which the bankruptcy
23 judge is assigned.

24 “(3)(A) Each chief bankruptcy judge shall submit an
25 annual report to the Director of the Administrative Office

1 of the United States Courts on the travel expenses of each
2 bankruptcy judge assigned to the applicable district (in-
3 cluding the travel expenses of the chief bankruptcy judge
4 of such district).

5 “(B) The annual report under this paragraph shall
6 include—

7 “(i) the travel expenses of each bankruptcy
8 judge, with the name of the bankruptcy judge to
9 whom the travel expenses apply;

10 “(ii) a description of the subject matter and
11 purpose of the travel relating to each travel expense
12 identified under clause (i), with the name of the
13 bankruptcy judge to whom the travel applies; and

14 “(iii) the number of days of each travel de-
15 scribed under clause (ii), with the name of the bank-
16 ruptcy judge to whom the travel applies.

17 “(4)(A) The Director of the Administrative Office of
18 the United States Courts shall—

19 “(i) consolidate the reports submitted under
20 paragraph (3) into a single report; and

21 “(ii) annually submit such consolidated report
22 to Congress.

23 “(B) The consolidated report submitted under this
24 paragraph shall include the specific information required
25 under paragraph (3)(B), including the name of each bank-

1 ruptcy judge with respect to clauses (i), (ii), and (iii) of
2 paragraph (3)(B).”.

3 **SEC. 129. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED**
4 **STATES CODE.**

5 Section 507(a) of title 11, United States Code, is
6 amended by inserting after paragraph (9) the following:

7 “(10) Tenth, allowed claims for death or per-
8 sonal injuries resulting from the operation of a
9 motor vehicle or vessel if such operation was unlaw-
10 ful because the debtor was intoxicated from using al-
11 cohol, a drug or another substance.”.

12 **SEC. 131. APPLICATION OF THE CODEBTOR STAY ONLY**
13 **WHEN THE STAY PROTECTS THE DEBTOR.**

14 Section 1301(b) of title 11, United States Code, is
15 amended—

16 (1) by inserting “(1)” after “(b)”; and

17 (2) by adding at the end the following:

18 “(2)(A) Notwithstanding subsection (c) and except as
19 provided in subparagraph (B), in any case in which the
20 debtor did not receive the consideration for the claim held
21 by a creditor, the stay provided by subsection (a) shall
22 apply to that creditor for a period not to exceed 30 days
23 beginning on the date of the order for relief, to the extent
24 the creditor proceeds against—

1 “(i) the individual that received that consider-
2 ation; or

3 “(ii) property not in the possession of the debt-
4 or that secures that claim.

5 “(B) Notwithstanding subparagraph (A), the stay
6 provided by subsection (a) shall apply in any case in which
7 the debtor is primarily obligated to pay the creditor in
8 whole or in part with respect to a claim described in sub-
9 paragraph (A) under a legally binding separation or prop-
10 erty settlement agreement or divorce or dissolution decree
11 with respect to—

12 “(i) an individual described in subparagraph
13 (A)(i); or

14 “(ii) property described in subparagraph (A)(ii).

15 “(3) Notwithstanding subsection (c), the stay pro-
16 vided by subsection (a) shall terminate as of the date of
17 confirmation of the plan, in any case in which the plan
18 of the debtor provides that the debtor’s interest in per-
19 sonal property subject to a lease with respect to which the
20 debtor is the lessee will be surrendered or abandoned or
21 no payments will be made under the plan on account of
22 the debtor’s obligations under the lease.”.

1 **SEC. 132. ADEQUATE PROTECTION FOR INVESTORS.**

2 (a) DEFINITION.—Section 101 of title 11, United
3 States Code, is amended by inserting after paragraph (48)
4 the following:

5 “(48A) ‘securities self regulatory organization’
6 means either a securities association registered with
7 the Securities and Exchange Commission pursuant
8 to section 15A of the Securities Exchange Act of
9 1934 or a national securities exchange registered
10 with the Securities and Exchange Commission pur-
11 suant to section 6 of the Securities Exchange Act of
12 1934;”.

13 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
14 United States Code, as amended by section 118, is
15 amended—

16 (1) in paragraph (19) by striking “or” at the
17 end;

18 (2) in paragraph (20) by striking the period at
19 the end and inserting “; or”; and

20 (3) by inserting after paragraph (20) the fol-
21 lowing:

22 “(21) under subsection (a), of the commence-
23 ment or continuation of an investigation or action by
24 a securities self regulatory organization to enforce
25 such organization’s regulatory power; of the enforce-
26 ment of an order or decision, other than for mone-

1 tary sanctions, obtained in an action by the securi-
2 ties self regulatory organization to enforce such or-
3 ganization's regulatory power; or of any act taken by
4 the securities self regulatory organization to delist,
5 delete, or refuse to permit quotation of any stock
6 that does not meet applicable regulatory require-
7 ments.”.

8 **SEC. 134. GIVING DEBTORS THE ABILITY TO KEEP LEASED**
9 **PERSONAL PROPERTY BY ASSUMPTION.**

10 Section 365 of title 11, United States Code, is
11 amended by adding at the end the following:

12 “(p)(1) If a lease of personal property is rejected or
13 not timely assumed by the trustee under subsection (d),
14 the leased property is no longer property of the estate and
15 the stay under section 362(a) of this title is automatically
16 terminated.

17 “(2) In the case of an individual under chapter 7,
18 the debtor may notify the creditor in writing that the debt-
19 or desires to assume the lease. Upon being so notified,
20 the creditor may, at its option, notify the debtor that it
21 is willing to have the lease assumed by the debtor and
22 may, at its option, condition such assumption on cure of
23 any outstanding default on terms set by the contract. If
24 within 30 days of the notice from the creditor the debtor
25 notifies the lessor in writing that the lease is assumed,

1 the liability under the lease will be assumed by the debtor
2 and not by the estate. The stay under section 362 of this
3 title and the injunction under section 524(a) of this title
4 shall not be violated by notification of the debtor and ne-
5 gotiation of cure under this subsection. Nothing in this
6 paragraph shall require a debtor to assume a lease, or a
7 creditor to permit assumption.

8 “(3) In a case under chapter 11 of this title in which
9 the debtor is an individual and in a case under chapter
10 13 of this title, if the debtor is the lessee with respect
11 to personal property and the lease is not assumed in the
12 plan confirmed by the court, the lease is deemed rejected
13 as of the conclusion of the hearing on confirmation. If the
14 lease is rejected, the stay under section 362 of this title
15 and any stay under section 1301 is automatically termi-
16 nated with respect to the property subject to the lease.”.

17 **SEC. 135. ADEQUATE PROTECTION OF LESSORS AND PUR-**
18 **CHASE MONEY SECURED CREDITORS.**

19 (a) IN GENERAL.—Chapter 13 of title 11, United
20 States Code, is amended by adding after section 1307 the
21 following:

22 **“§ 1307A. Adequate protection in chapter 13 cases**

23 “(a)(1)(A) On or before the date that is 30 days after
24 the filing of a case under this chapter, the debtor shall

1 make cash payments in an amount determined under
2 paragraph (2), to—

3 “(i) any lessor of personal property; and

4 “(ii) any creditor holding a claim secured by
5 personal property to the extent that the claim is at-
6 tributable to the purchase of that property by the
7 debtor.

8 “(B) The debtor or the plan shall continue making
9 the adequate protection payments required under subpara-
10 graph (A) until the earlier of the date on which—

11 “(i) the creditor begins to receive actual pay-
12 ments under the plan; or

13 “(ii) the debtor relinquishes possession of the
14 property referred to in subparagraph (A) to—

15 “(I) the lessor or creditor; or

16 “(II) any third party acting under claim of
17 right, as applicable.

18 “(2) The payments referred to in paragraph (1)(A)
19 shall be the contract amount and shall reduce any amount
20 payable under section 1326(a) of the title.

21 “(b)(1) Subject to the limitations under paragraph
22 (2), the court may, after notice and hearing, change the
23 amount and timing of the dates of payment of payments
24 made under subsection (a).

1 “(2)(A) The payments referred to in paragraph (1)
2 shall be payable not less frequently than monthly.

3 “(B) The amount of payments referred to in para-
4 graph (1) shall not be less than the amount of any weekly,
5 biweekly, monthly, or other periodic payment scheduled as
6 payable under the contract between the debtor and credi-
7 tor.

8 “(c) Notwithstanding section 1326(b), the payments
9 referred to in subsection (a)(1)(A) shall be continued in
10 addition to plan payments under a confirmed plan until
11 actual payments to the creditor begin under that plan, if
12 the confirmed plan provides—

13 “(1) for payments to a creditor or lessor de-
14 scribed in subsection (a)(1); and

15 “(2) for the deferral of payments to such credi-
16 tor or lessor under the plan until the payment of
17 amounts described in section 1326(b).

18 “(d) Notwithstanding sections 362, 542, and 543, a
19 lessor or creditor described in subsection (a) may retain
20 possession of property described in that subsection that
21 was obtained in accordance with applicable law before the
22 date of filing of the petition until the first payment under
23 subsection (a)(1)(A) is received by the lessor or creditor.

24 “(e) On or before 60 days after the filling of a case
25 under this chapter, a debtor retaining possession of per-

1 sonal property subject to a lease or securing a claim attrib-
2 utable in whole or in part to the purchase price of such
3 property shall provide each creditor or lessor reasonable
4 evidence of the maintenance of any required insurance
5 coverage with respect to the use or ownership of such
6 property and continue to do so for so long as the debtor
7 retains possession of such property.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of chapter 13 of title 11, United States
10 Code, is amended by inserting after the item relating to
11 section 1307 the following:

“1307A. Adequate protection in chapter 13 cases.”.

12 **SEC. 136. AUTOMATIC STAY.**

13 Section 362(b) of title 11, United States Code, as
14 amended by sections 118 and 132, is amended—

15 (1) in paragraph (20), by striking “or” at the
16 end;

17 (2) in paragraph (21), by striking the period at
18 the end and inserting a semicolon; and

19 (3) by inserting after paragraph (21) the fol-
20 lowing:

21 “(22) under subsection (a) of any transfer that
22 is not avoidable under section 544 of this title and
23 that is not avoidable under section 549 of this title;
24 or

1 (4) in paragraph (3), as redesignated, by strik-
2 ing “Second” and inserting “Third”;

3 (5) in paragraph (4), as redesignated, by strik-
4 ing “Third” and inserting “Fourth”;

5 (6) in paragraph (5), as redesignated, by strik-
6 ing “Fourth” and inserting “Fifth”;

7 (7) in paragraph (6), as redesignated, by strik-
8 ing “Fifth” and inserting “Sixth”;

9 (8) in paragraph (7), as redesignated, by strik-
10 ing “Sixth” and inserting “Seventh”; and

11 (9) by inserting before paragraph (2), as redesi-
12 gnated, the following:

13 “(1) First, allowed claims for domestic support
14 obligations to be paid in the following order on the
15 condition that funds received under this paragraph
16 by a governmental unit in a case under this title be
17 applied:

18 “(A) Claims that, as of the date of entry
19 of the order for relief, are owed directly to a
20 spouse, former spouse, or child of the debtor, or
21 the parent of such child, without regard to
22 whether the claim is filed by the spouse, former
23 spouse, child, or parent, or is filed by a govern-
24 mental unit on behalf of that person.

1 “(B) Claims that, as of the date of entry
2 of the order for relief, are assigned by a spouse,
3 former spouse, child of the debtor, or the par-
4 ent of that child to a governmental unit or are
5 owed directly to a governmental unit under ap-
6 plicable nonbankruptcy law.”.

7 **SEC. 142. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
8 **ALIMONY, MAINTENANCE, AND SUPPORT.**

9 Section 523 of title 11, United States Code, is
10 amended—

11 (1) in subsection (a), by striking paragraph (5)
12 and inserting the following:

13 “(5) for a domestic support obligation;”;

14 (2) in subsection (a)(15)—

15 (A) by inserting “or” after “court of
16 record,”;

17 (B) by striking “unless—” and all that fol-
18 lows through “debtor” the last place it appears;

19 and

20 (3) in subsection (c), by striking “(6), or (15)”
21 each place it appears and inserting “or (6)”.

22 **SEC. 143. CONTINUED LIABILITY OF PROPERTY.**

23 Section 522 of title 11, United States Code, is
24 amended—

1 (1) in subsection (c), by striking paragraph (1)
2 and inserting the following:

3 “(1) a debt of a kind specified in paragraph (1)
4 or (5) of section 523(a) (in which case, notwith-
5 standing any provision of applicable nonbankruptcy
6 law to the contrary, such property shall be liable for
7 a debt of a kind specified in section 523(a)(5);”;

8 (2) in subsection (f)(1)(A), by striking the dash
9 and all that follows through the end of the subpara-
10 graph and inserting “of a kind that is specified in
11 section 523(a)(5); or”.

12 **SEC. 144. PROTECTION OF DOMESTIC SUPPORT CLAIMS**
13 **AGAINST PREFERENTIAL TRANSFER MO-**
14 **TIONS.**

15 Section 547(c)(7) of title 11, United States Code, is
16 amended to read as follows:

17 “(7) to the extent such transfer was a bona fide
18 payment of a debt for a domestic support obligation;
19 or”.

20 **SEC. 145. CLARIFICATION OF MEANING OF HOUSEHOLD**
21 **GOODS.**

22 Section 101 of title 11, United States Code, is
23 amended by inserting after paragraph (27) the following:

24 “(27A) ‘household goods’ includes tangible per-
25 sonal property normally found in or around a resi-

1 by a family farmer for the principal residence of that
2 farmer.

3 “(3) Paragraph (1) shall not apply to debtors if appli-
4 cable State law expressly provides by a statute enacted
5 after the effective date of this paragraph that such para-
6 graph shall not apply to debtors.”.

7 **SEC. 148. BANKRUPTCY FEES.**

8 Section 1930 of title 28, United States Code, is
9 amended—

10 (1) in subsection (a) by striking “Notwithstand-
11 ing section 1915 of this title, the” and inserting
12 “The”; and

13 (2) by adding at the end the following:

14 “(f)(1) Pursuant to procedures prescribed by the Ju-
15 dicial Conference of the United States, the district court
16 or the bankruptcy court may waive the filing fee in a case
17 under chapter 7 of title 11 for an individual debtor who
18 is unable to pay such fee in installments. For purposes
19 of this paragraph, the term ‘filing fee’ means the filing
20 fee required by subsection (a), or any other fee prescribed
21 by the Judicial Conference under subsections (b) and (c)
22 that is payable to the clerk upon the commencement of
23 a case under chapter 7 of title 11.

1 “(2) The district court or the bankruptcy court may
2 also waive for such debtors other fees prescribed pursuant
3 to subsections (b) and (c).

4 “(3) This subsection does not restrict the district
5 court or the bankruptcy court from waiving, in accordance
6 with Judicial Conference policy, fees prescribed pursuant
7 to such subsections for other debtors and creditors.”.

8 **SEC. 149. COLLECTION OF CHILD SUPPORT.**

9 (a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-
10 tion 704 of title 11, United States Code, as amended by
11 section 102, is amended—

12 (1) by inserting “(a)” before “The trustee”,

13 (2) in paragraph (9) by striking “and” at the
14 end,

15 (3) in paragraph (10) by striking the period
16 and inserting “; and”, and

17 (4) by adding at the end the following:

18 “(11) if, with respect to an individual debtor,
19 there is a claim for support of a child of the debtor
20 or a custodial parent of such child entitled to receive
21 priority under section 507(a)(1) of this title, provide
22 the applicable notification specified in subsection (b).

23 “(b)(1) In any case described in subsection (a)(11),
24 the trustee shall—

1 “(A)(i) notify in writing the holder of the claim
2 of the right of such holder to use the services of a
3 State child support enforcement agency established
4 under sections 464 and 466 of the Social Security
5 Act for the State in which the holder resides; and

6 “(ii) include in the notice under this paragraph
7 the address and telephone number of the child sup-
8 port enforcement agency; and

9 “(B)(i) notify in writing the State child support
10 agency of the State in which the holder of the claim
11 resides of the claim;

12 “(ii) include in the notice under this paragraph
13 the name, address, and telephone number of the
14 holder of the claim; and

15 “(iii) at such time as the debtor is granted a
16 discharge under section 727 of this title, notify the
17 holder of such claim and the State child support
18 agency of the State in which such holder resides
19 of—

20 “(I) the granting of the discharge;

21 “(II) the last recent known address of the
22 debtor; and

23 “(III) with respect to the debtor’s case, the
24 name of each creditor that holds a claim that
25 is not discharged under paragraph (2), (4), or

1 (14A) of section 523(a) of this title or that was
2 reaffirmed by the debtor under section 524(c)
3 of this title.

4 “(2)(A) If, after receiving a notice under paragraph
5 (1)(B)(iii), a holder of a claim or a State child support
6 agency is unable to locate the debtor that is the subject
7 of the notice, such holder or such agency may request from
8 a creditor described in paragraph (1)(B)(iii)(III) the last
9 known address of the debtor.

10 “(B) Notwithstanding any other provision of law, a
11 creditor that makes a disclosure of a last known address
12 of a debtor in connection with a request made under sub-
13 paragraph (A) shall not be liable to the debtor or any
14 other person by reason of making such disclosure.”

15 (b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—
16 Section 1302 of title 11, United States Code, is
17 amended—

18 (1) in subsection (b)—

19 (A) in paragraph (4) by striking “and” at
20 the end,

21 (B) in paragraph (5) by striking the period
22 and inserting “; and”, and

23 (C) by adding at the end the following:

24 “(6) if, with respect to an individual debtor,
25 there is a claim for support of a child of the debtor

1 or a custodial parent of such child entitled to receive
2 priority under section 507(a)(1) of this title, provide
3 the applicable notification specified in subsection
4 (d).”, and

5 (2) by adding at the end the following:

6 “(d)(1) In any case described in subsection (b)(6),
7 the trustee shall—

8 “(A)(i) notify in writing the holder of the claim
9 of the right of such holder to use the services of a
10 State child support enforcement agency established
11 under sections 464 and 466 of the Social Security
12 Act for the State in which the holder resides; and

13 “(ii) include in the notice under this paragraph
14 the address and telephone number of the child sup-
15 port enforcement agency; and

16 “(B)(i) notify in writing the State child support
17 agency of the State in which the holder of the claim
18 resides of the claim; and

19 “(ii) include in the notice under this paragraph
20 the name, address, and telephone number of the
21 holder of the claim;

22 “(iii) at such time as the debtor is granted a
23 discharge under section 1328 of this title, notify the
24 holder of the claim and the State child support

1 agency of the State in which such holder resides
2 of—

3 “(I) the granting of the discharge;

4 “(II) the last recent known address of the
5 debtor; and

6 “(III) with respect to the debtor’s case, the
7 name of each creditor that holds a claim that
8 is not discharged under paragraph (2), (4), or
9 (14A) of section 523(a) of this title or that was
10 reaffirmed by the debtor under section 524(c)
11 of this title.

12 “(2)(A) If, after receiving a notice under paragraph
13 (1)(B)(iii), a holder of a claim or a State child support
14 agency is unable to locate the debtor that is the subject
15 of the notice, such holder or such agency may request from
16 a creditor described in paragraph (1)(B)(iii) the last
17 known address of the debtor.

18 “(B) Notwithstanding any other provision of law, a
19 creditor that makes a disclosure of a last known address
20 of a debtor in connection with a request made under sub-
21 paragraph (A) shall not be liable to the debtor or any
22 other person by reason of making such disclosure.”.

1 **SEC. 150. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**
2 **PANT CONTRIBUTIONS AND OTHER PROP-**
3 **ERTY FROM THE ESTATE.**

4 (a) IN GENERAL.—Section 541(b) of title 11 of the
5 United States Code is amended—

6 (1) by striking “or” at the end of paragraph
7 (4)(B)(ii);

8 (2) by striking the period at the end of para-
9 graph (5) and inserting “; or”; and

10 (3) by inserting after paragraph (5) the follow-
11 ing:

12 “(7) any amount or interest in property to the
13 extent that an employer has withheld amounts from
14 the wages of employees for contribution to an em-
15 ployee benefit plan subject to title I of the Employee
16 Retirement Income Security Act of 1974, or to the
17 extent that the employer has received amounts as a
18 result of payments by participants or beneficiaries to
19 an employer for contribution to an employee benefit
20 plan subject to title I of the Employee Retirement
21 Income Security Act of 1974.”.

22 (b) APPLICATION OF AMENDMENT.—The amendment
23 made by this section shall not apply to cases commenced
24 under title 11 of the United States Code before the expira-
25 tion of the 180-day period beginning on the date of the
26 enactment of this Act.

1 **SEC. 151. CLARIFICATION OF POSTPETITION WAGES AND**
2 **BENEFITS.**

3 Section 503(b)(1)(A) of title 11, United States Code,
4 is amended to read as follows:

5 “(A) the actual, necessary costs and expenses of
6 preserving the estate, including wages, salaries, or
7 commissions for services rendered after the com-
8 mencement of the case, and wages and benefits at-
9 tributable to any period of time after commencement
10 of the case as a result of the debtor’s violation of
11 Federal law, without regard to when the original un-
12 lawful act occurred or to whether any services were
13 rendered;”.

14 **SEC. 152. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
15 **SUPPORT OBLIGATION PROCEEDINGS.**

16 Section 362(b)(2) of title 11, United States Code, is
17 amended—

18 (1) in subparagraph (A) by striking “or” at the
19 end;

20 (2) in subparagraph (B) by adding “or” at the
21 end; and

22 (3) by adding at the end the following:

23 “(C) under subsection (a) of—

24 “(i) the withholding of income for
25 payment of a domestic support obligation
26 pursuant to a judicial or administrative

1 order or statute for such obligation that
2 first becomes payable after the date on
3 which the petition is filed; or

4 “(ii) the withholding of income for
5 payment of a domestic support obligation
6 owed directly to the spouse, former spouse
7 or child of the debtor or the parent of such
8 child, pursuant to a judicial or administra-
9 tive order or statute for such obligation
10 that becomes payable before the date on
11 which the petition is filed unless the court
12 finds, after notice and hearing, that such
13 withholding would render the plan infeas-
14 ible;”.

15 **SEC. 153. AUTOMATIC STAY INAPPLICABLE TO CERTAIN**
16 **PROCEEDINGS AGAINST THE DEBTOR.**

17 Section 362(b)(2) of title 11, United States Code, as
18 amended by section 153, is amended—

19 (1) in subparagraph (B) by striking “or” at the
20 end;

21 (2) by inserting after subparagraph (C) the fol-
22 lowing:

23 “(D) the commencement or continuation of
24 a proceeding concerning a child custody or visi-
25 tation;

1 “(E) the commencement or continuation of
2 a proceeding alleging domestic violence; or

3 “(F) the commencement or continuation of
4 a proceeding seeking a dissolution of marriage,
5 except to the extent the proceeding concerns
6 property of the estate;”.

7 **SEC. 154. DEFINITION OF DOMESTIC SUPPORT OBLIGA-**
8 **TION.**

9 Section 101 of title 11, United States Code, is
10 amended—

11 (1) by striking paragraph (12A); and

12 (2) by inserting after paragraph (14) the fol-
13 lowing:

14 (14A) ‘domestic support obligation’ means a debt
15 that accrues before or after the entry of an order for
16 relief under this title that is—

17 “(A) owed to or recoverable by—

18 “(i) a spouse, former spouse, or child
19 of the debtor or that child’s legal guardian;
20 or

21 “(ii) a governmental unit;

22 “(B) in the nature of alimony, mainte-
23 nance, or support (including assistance provided
24 by a governmental unit) of such spouse, former

1 spouse, or child, without regard to whether such
2 debt is expressly so designated;

3 “(C) established or subject to establish-
4 ment before or after entry of an order for relief
5 under this title, by reason of applicable provi-
6 sions of—

7 “(i) a separation agreement, divorce
8 decree, or property settlement agreement;

9 “(ii) an order of a court of record; or

10 “(iii) a determination made in accord-
11 ance with applicable nonbankruptcy law by
12 a governmental unit; and

13 “(D) not assigned to a nongovernmental
14 entity, unless that obligation is assigned volun-
15 tarily by the spouse, former spouse, child, or
16 parent solely for the purpose of collecting the
17 debt.”.

18 **SEC. 155. REQUIREMENTS TO OBTAIN CONFIRMATION AND**
19 **DISCHARGE IN CASES INVOLVING DOMESTIC**
20 **SUPPORT OBLIGATIONS.**

21 Title 11, United States Code, is amended—

22 (1) in section 1129(a), by adding at the end the
23 following:

24 “(14) If the debtor is required by a judicial or
25 administrative order or statute to pay a domestic

1 support obligation, the debtor has paid all amounts
2 payable under such order or statute for such obliga-
3 tion that first become payable after the date on
4 which the petition is filed.”;

5 (2) in section 1325(a)—

6 (A) in paragraph (5), by striking “and” at
7 the end;

8 (B) in paragraph (6), by striking the pe-
9 riod at the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(7) if the debtor is required by a judicial or
12 administrative order or statute to pay a domestic
13 support obligation, the debtor has paid all amounts
14 payable under such order for such obligation that
15 become payable after the date on which the petition
16 is filed.”; and

17 (3) in section 1328(a) in the matter preceding
18 paragraph (1), by inserting “, after a debtor who is
19 required by a judicial or administrative order to pay
20 a domestic support obligation certifies that all
21 amounts payable under such order that are due on
22 or after the date the petition was filed have been
23 paid, and after a debtor who is required by a judicial
24 or administrative order to pay a domestic support
25 obligation, certifies that all amounts payable under

1 such order that are due before the date on which the
2 petition was filed if such amounts are due solely to
3 a spouse, former spouse or child of the debtor or the
4 parent of such child pursuant to a judicial or admin-
5 istrative order, unless the holder of such claim
6 agrees to a different treatment of such claim” after
7 “completion by the debtor of all payments under the
8 plan”.

9 **SEC. 156. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
10 **SUPPORT OBLIGATION PROCEEDINGS.**

11 Section 362(b) of title 11, United States Code, as
12 amended by sections 104 and 606, is amended—

13 (1) amending paragraph (2) to read as follows:

14 “(2) under subsection (a)—

15 “(A) of the commencement or continuation
16 of an action or proceeding for—

17 “(i) the establishment of paternity as
18 a part of an effort to collect domestic sup-
19 port obligations; or

20 “(ii) the establishment or modification
21 of an order for domestic support obliga-
22 tions; or

23 “(B) the collection of a domestic support
24 obligation from property that is not property of
25 the estate; or

1 “(C) under subsection (a) of—

2 “(i) the withholding of income for
3 payment of a domestic support obligation
4 pursuant to a judicial or administrative
5 order or statute for such obligation that
6 first becomes payable after the date on
7 which the petition is filed; or

8 “(ii) the withholding of income for
9 payment of a domestic support obligation
10 owed directly to the spouse, former spouse
11 or child of the debtor or the parent of such
12 child, pursuant to a judicial or administra-
13 tive order or statute for such obligation
14 that becomes payable before the date on
15 which the petition is filed unless the court
16 finds, after notice and hearing, that such
17 withholding would render the plan infeasible;”;

18
19 (2) in paragraph (19), by striking “or” at the
20 end;

21 (3) in paragraph (20), by striking the period at
22 the end and inserting a semicolon; and

23 (4) by inserting after paragraph (20) the fol-
24 lowing:

25 “(21) under subsection (a) with respect to—

1 “(A) the withholding, suspension, or re-
2 striction of drivers’ licenses, professional and
3 occupational licenses, and recreational licenses
4 pursuant to State law, as specified in section
5 466(a)(16) of the Social Security Act (42
6 U.S.C. 666(a)(16)) or with respect to the re-
7 porting of overdue support owed by an absent
8 parent to any consumer reporting agency as
9 specified in section 466(a)(7) of the Social Se-
10 curity Act (42 U.S.C. 666(a)(7)) if such debt is
11 payable solely to a spouse, former spouse or
12 child of the debtor or the parent of such child
13 pursuant to a judicial or administrative order
14 or statute, unless the holder of such claim
15 agrees to waive such withholding, suspension or
16 restriction;

17 “(B) the interception of tax refunds, as
18 specified in sections 464 and 466(a)(3) of the
19 Social Security Act (42 U.S.C. 664 and
20 666(a)(3)) if such tax refund is payable solely
21 to a spouse, former spouse or child of the debt-
22 or or the parent of such child pursuant to a ju-
23 dicial or administrative order or statute; or

1 “(C) the enforcement of medical obliga-
2 tions as specified under title IV of the Social
3 Security Act (42 U.S.C. 601 et seq.).”.

4 **SEC. 157. EXEMPTION FOR RIGHT TO RECEIVE CERTAIN AL-**
5 **IMONY, MAINTENANCE, OR SUPPORT.**

6 Section 522(b)(3) of title 11, United States Code, as
7 so redesignated and amended by sections 115 and 203,
8 is amended—

9 (1) in subparagraph (C) by striking “and” at
10 the end,

11 (2) in subparagraph (D) by striking the period
12 at the end and inserting “; and”, and

13 (3) by inserting after subparagraph (D) the fol-
14 lowing:

15 “(E) the right to receive—

16 “(i) alimony, maintenance , support, or
17 property traceable to alimony, maintenance ,
18 support; or

19 “(ii) amounts payable as a result of a
20 property settlement agreement with the debtor’s
21 spouse or former spouse; or of an interlocutory
22 or final divorce decree;

23 to the extent reasonably necessary for the support of
24 the debtor or a dependent of the debtor.”.

1 **SEC. 158. AUTOMATIC STAY INAPPLICABLE TO CERTAIN**
2 **PROCEEDINGS AGAINST THE DEBTOR.**

3 Section 362(b)(2) of title 11, United States Code, as
4 amended by section 156, is amended—

5 (1) in subparagraph (A) by striking “or” at the
6 end;

7 (2) by inserting after subparagraph (B) the fol-
8 lowing:

9 “(C) the commencement or continuation of
10 a proceeding concerning a child custody or visi-
11 tation;

12 “(D) the commencement or continuation of
13 a proceeding alleging domestic violence; or

14 “(E) the commencement or continuation of
15 a proceeding seeking a dissolution of marriage,
16 except to the extent the proceeding concerns
17 property of the estate;”.

18 **TITLE II—DISCOURAGING**
19 **BANKRUPTCY ABUSE**

20 **SEC. 201. REENACTMENT OF CHAPTER 12.**

21 (a) REENACTMENT.—(1) Chapter 12 of title 11 of
22 the United States Code, as in effect on September 30,
23 1999, is hereby reenacted.

24 (2) Paragraph (1) shall take effect on September 30,
25 1999.

1 (b) CONTENTS OF CHAPTER 12 PLAN.—Section
2 1222(a)(2) of title 11, United States Code, is amended
3 to read as follows:

4 “(2) provide for the full payment, in deferred
5 cash payments, of all claims entitled to priority
6 under section 507, unless—

7 “(A) the claim is a claim owed to a govern-
8 mental unit that arises as a result of the sale,
9 transfer, exchange, or other disposition of any
10 farm asset used in the debtor’s farming oper-
11 ation, in which case the claim shall be treated
12 as an unsecured claim that is not entitled to
13 priority under section 507, but the debt shall be
14 treated in such manner only if the debtor re-
15 ceives a discharge; or

16 “(B) the holder of a particular claim
17 agrees to a different treatment of that claim;
18 and”.

19 (c) SPECIAL NOTICE PROVISIONS.—Section 1231(d)
20 of title 11, United States Code, is amended by striking
21 “a State or local governmental unit” and inserting “any
22 governmental unit”.

23 (d) EXPANDED DEFINITION OF FAMILY FARMER.—
24 Section 101(18) of title 11, United States Code, is
25 amended—

1 (1) in subparagraph (A)—

2 (A) by striking “\$1,500,000” and inserting
3 “\$3,000,000”;

4 (B) by striking “80” and inserting “50”;

5 and

6 (C) by striking “the taxable year preceding
7 the taxable year” and inserting “at least 1 of
8 the 3 taxable years preceding the taxable year”;

9 and

10 (2) in subparagraph (B)—

11 (A) in clause (i), by striking “80” and in-
12 sserting “50”; and

13 (B) in clause (ii), by striking “\$1,500,000”
14 and inserting “\$3,000,000”.

15 (e) MEETINGS OF CREDITORS AND EQUITY SECURITY
16 HOLDERS.—Section 341 of title 11, United States Code,
17 is amended by adding at the end the following:

18 “(e) Notwithstanding subsections (a) and (b), the
19 court, on the request of a party in interest and after notice
20 and a hearing, for cause may order that the United States
21 trustee not convene a meeting of creditors or equity secu-
22 rity holders if the debtor has filed a plan as to which the
23 debtor solicited acceptances prior to the commencement
24 of the case.”.

1 **SEC. 202. MEETINGS OF CREDITORS AND EQUITY SECURITY**
2 **HOLDERS.**

3 Section 341 of title 11, United States Code, is
4 amended by adding at the end the following:

5 “(e) Notwithstanding subsections (a) and (b), the
6 court, on the request of a party in interest and after notice
7 and a hearing, for cause may order that the United States
8 trustee not convene a meeting of creditors or equity secu-
9 rity holders if the debtor has filed a plan as to which the
10 debtor solicited acceptances prior to the commencement
11 of the case.”.

12 **SEC. 203. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
13 **RUPTCY.**

14 (a) IN GENERAL.—Section 522 of title 11, United
15 States Code, as amended by sections 113, 125, and 147
16 is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (2)—

19 (i) by striking “(2)(A)” and inserting:

20 “(3) Property listed in this paragraph is—

21 “(A) subject to subsections (o) and (p),”;

22 (ii) in subparagraph (B), by striking

23 “and” at the end;

24 (iii) in subparagraph (C), by striking

25 the period at the end and inserting “;

26 and”; and

1 (iv) by adding at the end the follow-
2 ing:

3 “(D) retirement funds to the extent that those
4 funds are in a fund or account that is exempt from
5 taxation under section 401, 403, 408, 408A, 414,
6 457, or 501(a) of the Internal Revenue Code of
7 1986.”;

8 (B) by striking paragraph (1) and insert-
9 ing:

10 “(2) Property listed in this paragraph is property
11 that is specified under subsection (d), unless the State law
12 that is applicable to the debtor under paragraph (3)(A)
13 specifically does not so authorize.”;

14 (C) in the matter preceding paragraph
15 (2)—

16 (i) by striking “(b)” and inserting
17 “(b)(1)”;

18 (ii) by striking “paragraph (2)” both
19 places it appears and inserting “paragraph
20 (3)”;

21 (iii) by striking “paragraph (1)” each
22 place it appears and inserting “paragraph
23 (2)”;

24 (iv) by striking “Such property is—”;

25 and

1 (D) by adding at the end of the subsection
2 the following:

3 “(4) For purposes of paragraph (3)(D) and sub-
4 section (d)(12), the following shall apply:

5 “(A) If the retirement funds are in a retirement
6 fund that has received a favorable determination
7 pursuant to section 7805 of the Internal Revenue
8 Code of 1986, and that determination is in effect as
9 of the date of the commencement of the case under
10 section 301, 302, or 303 of this title, those funds
11 shall be presumed to be exempt from the estate.

12 “(B) If the retirement funds are in a retirement
13 fund that has not received a favorable determination
14 pursuant to such section 7805, those funds are ex-
15 empt from the estate if the debtor demonstrates
16 that—

17 “(i) no prior determination to the contrary
18 has been made by a court or the Internal Reve-
19 nue Service; and

20 “(ii) the retirement fund is in substantial
21 compliance with the applicable requirements of
22 the Internal Revenue Code of 1986.

23 “(C) A direct transfer of retirement funds from
24 1 fund or account that is exempt from taxation
25 under section 401, 403, 408, 408A, 414, 457, or

1 501(a) of the Internal Revenue Code of 1986, pur-
2 suant to section 401(a)(31) of the Internal Revenue
3 Code of 1986, or otherwise, shall not cease to qualify
4 for exemption under paragraph (3)(D) or subsection
5 (d)(12) by reason of that direct transfer.

6 “(D)(i) Any distribution that qualifies as an eli-
7 gible rollover distribution within the meaning of sec-
8 tion 402(c) of the Internal Revenue Code of 1986 or
9 that is described in clause (ii) shall not cease to
10 qualify for exemption under paragraph (3)(D) or
11 subsection (d)(12) by reason of that distribution.

12 “(ii) A distribution described in this clause is
13 an amount that—

14 “(I) has been distributed from a fund or
15 account that is exempt from taxation under sec-
16 tion 401, 403, 408, 408A, 414, 457, or 501(a)
17 of the Internal Revenue Code of 1986; and

18 “(II) to the extent allowed by law, is de-
19 posited in such a fund or account not later than
20 60 days after the distribution of that amount.”;
21 and

22 (2) in subsection (d)—

23 (A) in the matter preceding paragraph (1),
24 by striking “subsection (b)(1)” and inserting
25 “subsection (b)(2)”; and

1 (B) by adding at the end the following:

2 “(12) Retirement funds to the extent that those
3 funds are in a fund or account that is exempt from
4 taxation under section 401, 403, 408, 408A, 414,
5 457, or 501(a) of the Internal Revenue Code of
6 1986.”.

7 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
8 United States Code, as amended by sections 118, 132,
9 136, and 141 is amended—

10 (1) in paragraph (27), by striking “or” at the
11 end;

12 (2) in paragraph (28), by striking the period
13 and inserting “; or”;

14 (3) by inserting after paragraph (28) the fol-
15 lowing:

16 “(29) under subsection (a), of withholding of
17 income from a debtor’s wages and collection of
18 amounts withheld, pursuant to the debtor’s agree-
19 ment authorizing that withholding and collection for
20 the benefit of a pension, profit-sharing, stock bonus,
21 or other plan established under section 401, 403,
22 408, 408A, 414, 457, or 501(a) of the Internal Rev-
23 enue Code of 1986 that is sponsored by the em-
24 ployer of the debtor, or an affiliate, successor, or
25 predecessor of such employer—

1 “(A) to the extent that the amounts with-
2 held and collected are used solely for payments
3 relating to a loan from a plan that satisfies the
4 requirements of section 408(b)(1) of the Em-
5 ployee Retirement Income Security Act of 1974
6 or is subject to section 72(p) of the Internal
7 Revenue Code of 1986; or

8 “(B) in the case of a loan from a thrift
9 savings plan described in subchapter III of title
10 5, that satisfies the requirements of section
11 8433(g) of such title.”; and

12 (4) by adding at the end of the flush material
13 following paragraph (29) the following: “Paragraph
14 (29) does not apply to any amount owed to a plan
15 referred to in that paragraph that is incurred under
16 a loan made during the 1-year period preceding the
17 filing of a petition. Nothing in paragraph (29) may
18 be construed to provide that any loan made under
19 a governmental plan under section 414(d), or a con-
20 tract or account under section 403(b), of the Inter-
21 nal Revenue Code of 1986 constitutes a claim or a
22 debt under this title.”.

23 (c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of
24 title 11, United States Code, is amended—

1 (1) by striking “or” at the end of paragraph
2 (17);

3 (2) by striking the period at the end of para-
4 graph (18) and inserting “; or”; and

5 (3) by adding at the end the following:

6 “(19) owed to a pension, profit-sharing, stock
7 bonus, or other plan established under section 401,
8 403, 408, 408A, 414, 457, or 501(c) of the Internal
9 Revenue Code of 1986, pursuant to—

10 “(A) a loan permitted under section
11 408(b)(1) of the Employee Retirement Income
12 Security Act of 1974) or subject to section
13 72(p) of the Internal Revenue Code of 1986; or

14 “(B) a loan from the thrift savings plan
15 described in subchapter III of title 5, that satis-
16 fies the requirements of section 8433(g) of such
17 title.

18 Paragraph (19) does not apply to any amount owed to
19 a plan referred to in that paragraph that is incurred under
20 a loan made during the 1-year period preceding the filing
21 of a petition. Nothing in paragraph (19) may be construed
22 to provide that any loan made under a governmental plan
23 under section 414(d), or a contract or account under sec-
24 tion 403(b), of the Internal Revenue Code of 1986 con-
25 stitutes a claim or a debt under this title.”.

1 (d) PLAN CONTENTS.—Section 1322 of title 11,
2 United States Code, is amended by adding at the end the
3 following:

4 “(f) A plan may not materially alter the terms of a
5 loan described in section 362(b)(29) of this title.”.

6 **SEC. 204. PROTECTION OF REFINANCE OF SECURITY IN-**
7 **TEREST.**

8 Subparagraphs (A), (B), and (C) of section 547(e)(2)
9 of title 11, United States Code, are amended by striking
10 “10” each place it appears and inserting “30”.

11 **SEC. 205. EXECUTORY CONTRACTS AND UNEXPIRED**
12 **LEASES.**

13 Section 365(d)(4) of title 11, United States Code, is
14 amended to read as follows:

15 “(4)(A) Subject to subparagraph (B), in any case
16 under any chapter in this title, an unexpired lease of non-
17 residential real property under which the debtor is the les-
18 see shall be deemed rejected, and the trustee shall imme-
19 diately surrender such property to the lessor, if the trustee
20 does not assume or reject the unexpired lease by the ear-
21 lier of—

22 (i) the date that is 120 days after the date of
23 the order for relief; or

24 (ii) the date of the entry of an order confirm-
25 ing a plan.

1 “(B)(i) The court may extend the period determined
2 under subparagraph (A) for 120 days upon motion of the
3 trustee or the lessor for cause.

4 “(ii) If the court grants an extension under clause
5 (i), the court may grant a subsequent extension only upon
6 prior written consent of the lessor.”.

7 **SEC. 206. CREDITORS AND EQUITY SECURITY HOLDERS**
8 **COMMITTEES.**

9 Section 1102(a)(2) of title 11, United States Code,
10 is amended by inserting before the first sentence the fol-
11 lowing: “On its own motion or on request of a party in
12 interest, and after notice and hearing, the court may order
13 a change in the membership of a committee appointed
14 under this subsection, if the court determines that the
15 change is necessary to ensure adequate representation of
16 creditors or equity security holders.”.

17 **SEC. 207. AMENDMENT TO SECTION 546 OF TITLE 11,**
18 **UNITED STATES CODE.**

19 Section 546 of title 11, United States Code, is
20 amended by inserting at the end thereof:

21 “(i) Notwithstanding section 545 (2) and (3) of this
22 title, the trustee may not avoid a warehouseman’s lien for
23 storage, transportation or other costs incidental to the
24 storage and handling of goods, as provided by section 7-
25 209 of the Uniform Commercial Code.”.

1 **SEC. 208. LIMITATION.**

2 Section 546(c)(1)(B) of title 11, United States Code,
3 is amended by striking “20” and inserting “45”.

4 **SEC. 209. AMENDMENT TO SECTION 330(a) OF TITLE 11,**
5 **UNITED STATES CODE.**

6 Section 330(a) of title 11, United States Code, is
7 amended—

8 (1) in paragraph (3)—

9 (A) in subparagraph (A) after “awarded”,
10 by inserting “to an examiner, chapter 11 trust-
11 ee, or professional person”; and

12 (B) by redesignating subdivisions (A)
13 through (E) as clauses (i) through (iv), respec-
14 tively; and

15 (2) by adding at the end the following:

16 “(B) In determining the amount of reasonable
17 compensation to be awarded a trustee, the court
18 shall treat such compensation as a commission based
19 on the results achieved.”.

20 **SEC. 210. POSTPETITION DISCLOSURE AND SOLICITATION.**

21 Section 1125 of title 11, United States Code, is
22 amended by adding at the end the following:

23 “(g) Notwithstanding subsection (b), an acceptance
24 or rejection of the plan may be solicited from a holder
25 of a claim or interest if such solicitation complies with ap-
26 plicable nonbankruptcy law and if such holder was solici-

1 ited before the commencement of the case in a manner
2 complying with applicable nonbankruptcy law.”.

3 **SEC. 211. PREFERENCES.**

4 Section 547(e) of title 11, United States Code, is
5 amended—

6 (1) by amending paragraph (2) to read as fol-
7 lows:

8 “(2) to the extent that such transfer was in
9 payment of a debt incurred by the debtor in the or-
10 dinary course of business or financial affairs of the
11 debtor and the transferee, and such transfer was—

12 “(A) made in the ordinary course of busi-
13 ness or financial affairs of the debtor and the
14 transferee; or

15 “(B) made according to ordinary business
16 terms;”;

17 (2) in paragraph (7) by striking “or” at the
18 end;

19 (3) in paragraph (8) by striking the period at
20 the end and inserting “; or”; and

21 (4) by adding at the end the following:

22 “(9) if, in a case filed by a debtor whose debts
23 are not primarily consumer debts, the aggregate
24 value of all property that constitutes or is affected
25 by such transfer is less than \$5,000.”.

1 **SEC. 212. VENUE OF CERTAIN PROCEEDINGS.**

2 Section 1409(b) of title 28, United States Code, is
3 amended by inserting “, or a nonconsumer debt against
4 a noninsider of less than \$10,000,” after “\$5,000”.

5 **SEC. 213. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

6 Section 1121(d) of title 11, United States Code, is
7 amended—

8 (1) by striking “On” and inserting “(1) Subject
9 to paragraph (1), on”; and

10 (2) by adding at the end the following:

11 “(2)(A) Such 120-day period may not be extended
12 beyond a date that is 18 months after the date of the order
13 for relief under this chapter.

14 “(B) Such 180-day period may not be extended be-
15 yond a date that is 20 months after the date of the order
16 for relief under this chapter.”.

17 **SEC. 214. FEES ARISING FROM CERTAIN OWNERSHIP IN-**
18 **TERESTS.**

19 Section 523(a)(16) of title 11, United States Code,
20 is amended—

21 (1) by striking “dwelling” the first place it ap-
22 pears;

23 (2) by striking “ownership or” and inserting
24 “ownership,”;

25 (3) by striking “housing” the first place it ap-
26 pears; and

1 (4) by striking “but only” and all that follows
2 through “such period,” and inserting “or a lot in a
3 homeowners association, for as long as the debtor or
4 the trustee has a legal, equitable, or possessory own-
5 ership interest in such unit, such corporation, or
6 such lot,”.

7 **SEC. 215. CLAIMS RELATING TO INSURANCE DEPOSITS IN**
8 **CASES ANCILLARY TO FOREIGN PROCEED-**
9 **INGS.**

10 Section 304 of title 11, United States Code, is
11 amended to read as follows:

12 **“§ 304. Cases ancillary to foreign proceedings**

13 “(a) For purposes of this section—

14 “(1) the term ‘domestic insurance company’
15 means a domestic insurance company, as such term
16 is used in section 109(b)(2);

17 “(2) the term ‘foreign insurance company’
18 means a foreign insurance company, as such term is
19 used in section 109(b)(3);

20 “(3) the term ‘United States claimant’ means a
21 beneficiary of any deposit referred to in subsection
22 (b) or any multibeneficiary trust referred to in sub-
23 section (b);

24 “(4) the term ‘United States creditor’ means,
25 with respect to a foreign insurance company—

1 “(A) a United States claimant; or

2 “(B) any business entity that operates in
3 the United States and that is a creditor; and

4 “(5) the term ‘United States policyholder’
5 means a holder of an insurance policy issued in the
6 United States.

7 “(b) The court may not grant relief under chapter
8 15 of this title with respect to any deposit, escrow, trust
9 fund, or other security required or permitted under any
10 applicable State insurance law or regulation for the benefit
11 of claim holders in the United States.”.

12 **SEC. 216. DEFAULTS BASED ON NONMONETARY OBLIGA-**
13 **TIONS.**

14 (a) **EXECUTORY CONTRACTS AND UNEXPIRED**
15 **LEASES.**—Section 365 of title 11, United States Code, is
16 amended—

17 (1) in subsection (b)—

18 (A) in paragraph (1)(A) by striking the
19 semicolon at the end and inserting the follow-
20 ing:

21 “other than a default that is a breach of a provision
22 relating to—

23 “(i) the satisfaction of any provision (other
24 than a penalty rate or penalty provision) relat-
25 ing to a default arising from any failure to per-

1 form nonmonetary obligations under an unex-
2 pired lease of real property (excluding executory
3 contracts that transfer a right or interest under
4 a filed or issued patent, copyright, trademark,
5 trade dress, or trade secret), if it is impossible
6 for the trustee to cure such default by perform-
7 ing nonmonetary acts at and after the time of
8 assumption; or

9 “(ii) the satisfaction of any provision
10 (other than a penalty rate or penalty provision)
11 relating to a default arising from any failure to
12 perform nonmonetary obligations under an ex-
13 ecutory contract, if it is impossible for the
14 trustee to cure such default by performing non-
15 monetary acts at and after the time of assump-
16 tion and if the court determines, based on the
17 equities of the case, that this subparagraph
18 should not apply with respect to such default;”;
19 and

20 (B) by amending paragraph (2)(D) to read
21 as follows:

22 “(D) the satisfaction of any penalty rate or
23 penalty provision relating to a default arising from
24 a failure to perform nonmonetary obligations under
25 an executory contract (excluding executory contracts

1 that transfer a right or interest under a filed or
2 issued patent, copyright, trademark, trade dress, or
3 trade secret) or under an unexpired lease of real or
4 personal property.”;

5 (2) in subsection (c)—

6 (A) in paragraph (2) by adding “or” at the
7 end;

8 (B) in paragraph (3) by striking “; or” at
9 the end and inserting a period; and

10 (C) by striking paragraph (4);

11 (3) in subsection (d)—

12 (A) by striking paragraphs (5) through
13 (9); and

14 (B) by redesignating paragraph (10) as
15 paragraph (5); and

16 (4) in subsection (f)(1) by striking “; except
17 that” and all that follows through the end of the
18 paragraph and inserting a period.

19 (b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Sec-
20 tion 1124(2) of title 11, United States Code, is
21 amended—

22 (1) in subparagraph (A) by inserting “or of a
23 kind that section 365(b)(1)(A) of this title expressly
24 does not require to be cured” before the semicolon
25 at the end;

1 (2) in subparagraph (C) by striking “and” at
2 the end;

3 (3) by redesignating subparagraph (D) as sub-
4 paragraph (E); and

5 (4) by inserting after subparagraph (C) the fol-
6 lowing:

7 “(D) if such claim or such interest arises
8 from any failure to perform a nonmonetary ob-
9 ligation, compensates the holder of such claim
10 or such interest (other than the debtor or an in-
11 sider) for any actual pecuniary loss incurred by
12 such holder as a result of such failure; and”.

13 **SEC. 217. SHARING OF COMPENSATION.**

14 Section 504 of title 11, United States Code, is
15 amended by adding at the end the following:

16 “(c) This section shall not apply with respect to shar-
17 ing, or agreeing to share, compensation with a bona fide
18 public service attorney referral program that operates in
19 accordance with non-Federal law regulating attorney re-
20 ferral services and with rules of professional responsibility
21 applicable to attorney acceptance of referrals.”.

22 **SEC. 218. PRIORITY FOR ADMINISTRATIVE EXPENSES.**

23 Section 503(b) of title 11, United States Code, is
24 amended—

1 (1) by deleting “and” at the end of paragraph
2 (5);

3 (2) by striking the period at the end of para-
4 graph (6) and inserting “; and”;

5 (3) by inserting the following after paragraph
6 (6):

7 “(7) with respect to a nonresidential real prop-
8 erty lease previously assumed under section 365,
9 and subsequently rejected, a sum equal to all mone-
10 tary obligations due, excluding those arising from or
11 relating to a failure to operate or penalty provisions,
12 for the period of one year following the later of the
13 rejection date or date of actual turnover of the
14 premises, without reduction or setoff for any reason
15 whatsoever except for sums actually received or to be
16 received from a nondebtor; and the claim for remain-
17 ing sums due for the balance of the term of the lease
18 shall be a claim under section 502(b)(6).”.

19 **TITLE III—GENERAL BUSINESS**
20 **BANKRUPTCY PROVISIONS**

21 **SEC. 301. DEFINITION OF DISINTERESTED PERSON.**

22 Section 101(14) of title 11, United States Code, is
23 amended to read as follows:

24 “(14) ‘disinterested person’ means a person
25 that—

1 “(A) is not a creditor, an equity security
2 holder, or an insider;

3 “(B) is not and was not, within 2 years be-
4 fore the date of the filing of the petition, a di-
5 rector, officer, or employee of the debtor; and

6 “(C) does not have an interest materially
7 adverse to the interest of the estate or of any
8 class of creditors or equity security holders, by
9 reason of any direct or indirect relationship to,
10 connection with, or interest in, the debtor, or
11 for any other reason;”.

12 **SEC. 302. MISCELLANEOUS IMPROVEMENTS.**

13 (a) WHO MAY BE A DEBTOR.—Section 109 of title
14 11, United States Code, is amended by adding at the end
15 the following:

16 “(h)(1) Subject to paragraphs (2) and (3) and not-
17 withstanding any other provision of this section, an indi-
18 vidual may not be a debtor under this title unless that
19 individual has, during the 90-day period preceding the
20 date of filing of the petition of that individual, received
21 credit counseling, including, at a minimum, participation
22 in an individual or group briefing that outlined the oppor-
23 tunities for available credit counseling and assisted that
24 individual in performing an initial budget analysis,
25 through a credit counseling program (offered through an

1 approved credit counseling service described in section
2 111(a)).

3 “(2)(A) Paragraph (1) shall not apply with respect
4 to a debtor who resides in a district for which the United
5 States trustee or bankruptcy administrator of the bank-
6 ruptcy court of that district determines that the approved
7 credit counseling services for that district are not reason-
8 ably able to provide adequate services to the additional
9 individuals who would otherwise seek credit counseling
10 from those programs by reason of the requirements of
11 paragraph (1).

12 “(B) Each United States trustee or bankruptcy ad-
13 ministrator that makes a determination described in sub-
14 paragraph (A) shall review that determination not later
15 than one year after the date of that determination, and
16 not less frequently than every year thereafter.

17 “(3)(A) Subject to subparagraph (B), the require-
18 ments of paragraph (1) shall not apply with respect to
19 a debtor who submits to the court a certification that—

20 “(i) describes exigent circumstances that merit
21 a waiver of the requirements of paragraph (1);

22 “(ii) states that the debtor requested credit
23 counseling services from an approved credit counsel-
24 ing service, but was unable to obtain the services re-
25 ferred to in paragraph (1) during the 5-day period

1 beginning on the date on which the debtor made
2 that request or that the exigent circumstances re-
3 quire filing before such 5-day period expires; and

4 “(iii) is satisfactory to the court.

5 “(B) With respect to a debtor, an exemption under
6 subparagraph (A) shall cease to apply to that debtor on
7 the date on which the debtor meets the requirements of
8 paragraph (1), but in no case may the exemption apply
9 to that debtor after the date that is 30 days after the debt-
10 or files a petition.”.

11 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
12 11, United States Code, is amended—

13 (1) in paragraph (9), by striking “or” at the
14 end;

15 (2) in paragraph (10), by striking the period
16 and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(11) after the filing of the petition, the debtor
19 failed to complete an instructional course concerning
20 personal financial management described in section
21 111 unless the debtor resides in a district for which
22 the United States trustee or bankruptcy adminis-
23 trator of the bankruptcy court of that district deter-
24 mines that the approved instructional courses are
25 not adequate to provide service to the additional in-

1 dividuals who would be required to compete the in-
2 structional course by reason of the requirements of
3 this section. Each United States trustee or bank-
4 ruptcy administrator that makes such a determina-
5 tion shall review that determination not later than 1
6 year after the date of that determination, and not
7 less frequently than every year thereafter.”.

8 (c) CHAPTER 13 DISCHARGE.—Section 1328 of title
9 11, United States Code, as amended by section 137, is
10 amended by adding at the end the following:

11 “(g) The court shall not grant a discharge under this
12 section to a debtor, unless after filing a petition the debtor
13 has completed an instructional course concerning personal
14 financial management described in section 111.

15 “(h) Subsection (g) shall not apply with respect to
16 a debtor who resides in a district for which the United
17 States trustee or bankruptcy administrator of the bank-
18 ruptcy court of that district determines that the approved
19 instructional courses are not adequate to provide service
20 to the additional individuals who would be required to
21 complete the instructional course by reason of the require-
22 ments of this section.

23 “(i) Each United States trustee or bankruptcy ad-
24 ministrator that makes a determination described in sub-
25 section (h) shall review that determination not later than

1 1 year after the date of that determination, and not less
2 frequently than every year thereafter.”.

3 (d) DEBTOR’S DUTIES.—Section 521 of title 11,
4 United States Code, as amended by sections 604 and 120,
5 is amended by adding at the end the following:

6 “(d) In addition to the requirements under subsection
7 (a), an individual debtor shall file with the court—

8 (1) a certificate from the credit counseling
9 service that provided the debtor services under sec-
10 tion 109(h); and

11 (2) a copy of the debt repayment plan, if any,
12 developed under section 109(h) through the credit
13 counseling service referred to in paragraph (1).”.

14 (e) GENERAL PROVISIONS.—

15 (1) IN GENERAL.—Chapter 1 of title 11, United
16 States Code, is amended by adding at the end the
17 following:

18 **“§ 111. Credit counseling services; financial manage-**
19 **ment instructional courses**

20 “The clerk of each district shall maintain a list of
21 credit counseling services that provide 1 or more programs
22 described in section 109(h) and a list of instructional
23 courses concerning personal financial management that
24 have been approved by—

25 (1) the United States trustee; or

1 “(2) the bankruptcy administrator for the dis-
2 trict.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of chapter 1 of title 11,
5 United States Code, is amended by adding at the
6 end the following:

 “111. Credit counseling services; financial management instructional courses.”.

7 (e) DEFINITIONS.—Section 101 of title 11, United
8 States Code, is amended—

9 (1) by inserting after paragraph (13) the fol-
10 lowing:

11 “(13A) ‘debtor’s principal residence’ means a
12 residential structure including incidental property
13 when the structure contains 1 to 4 units, whether or
14 not that structure is attached to real property, and
15 includes, without limitation, an individual condomin-
16 ium or cooperative unit or mobile or manufactured
17 home or trailer;”;

18 (2) by inserting after paragraph (27A), as
19 added by section 318 of this Act, the following:

20 “(27B) ‘incidental property’ means property in-
21 cidental to such residence including, without limita-
22 tion, property commonly conveyed with a principal
23 residence where the real estate is located, window
24 treatments, carpets, appliances and equipment lo-
25 cated in the residence, and easements, appur-

1 tenances, fixtures, rents, royalties, mineral rights, oil
2 and gas rights, escrow funds and insurance pro-
3 ceeds;”;

4 (3) in section 362(b), as amended by sections
5 117, 118, 132, 136, 141 203, 818, and 1007,—

6 (A) in paragraph (28) by striking “or” at
7 the end thereof;

8 (B) in paragraph (29) by striking the pe-
9 riod at the end and inserting “; or”; and

10 (C) by inserting after paragraph (29) the
11 following:

12 “(30) under subsection (a), until a prepetition
13 default is cured fully in a case under chapter 13 of
14 this title by actual payment of all arrears as re-
15 quired by the plan, of the postponement, continu-
16 ation or other similar delay of a prepetition fore-
17 closure proceeding or sale in accordance with appli-
18 cable nonbankruptcy law, but nothing herein shall
19 imply that such postponement, continuation or other
20 similar delay is a violation of the stay under sub-
21 section (a).”; and

22 (4) by amending section 1322(b)(2) to read as
23 follows:

24 “(2) modify the rights of holders of secured
25 claims, other than a claim secured primarily by a se-

1 security interest in property used as the debtor's prin-
2 cipal residence at any time during 180 days prior to
3 the filing of the petition, or of holders of unsecured
4 claims, or leave unaffected the rights of holders of
5 any class of claims;”.

6 (f) LIMITATION.—Section 362 of title 11, United
7 States Code, is amended by adding at the end the follow-
8 ing:

9 “(j) If one case commenced under chapter 7, 11, or
10 13 of this title is dismissed due to the creation of a debt
11 repayment plan administered by a credit counseling agen-
12 cy approved pursuant to section 111 of this title, then for
13 purposes of section 362(c)(3) of this title the subsequent
14 case commenced under any such chapter shall not be pre-
15 sumed to be filed not in good faith.”.

16 (g) RETURN OF GOODS SHIPPED.—Section 546(g) of
17 title 11, United States Code, as added by section 222(a)
18 of Public Law 103–394, is amended to read as follows:

19 “(h) Notwithstanding the rights and powers of a
20 trustee under sections 544(a), 545, 547, 549, and 553 of
21 this title, if the court determines on a motion by the trust-
22 ee made not later than 120 days after the date of the order
23 for relief in a case under chapter 11 of this title and after
24 notice and hearing, that a return is in the best interests
25 of the estate, the debtor, with the consent of the creditor,

1 and subject to the prior rights, if any, of third parties in
2 such goods, may return goods shipped to the debtor by
3 the creditor before the commencement of the case, and the
4 creditor may offset the purchase price of such goods
5 against any claim of the creditor against the debtor that
6 arose before the commencement of the case.”.

7 **SEC. 303. EXTENSIONS.**

8 Section 302(d)(3) of the Bankruptcy, Judges, United
9 States Trustees, and Family Farmer Bankruptcy Act of
10 1986 (28 U.S.C. 581 note) is amended—

11 (1) in subparagraph (A), in the matter follow-
12 ing clause (ii), by striking “or October 1, 2002,
13 whichever occurs first”; and

14 (2) in subparagraph (F)—

15 (A) in clause (i)—

16 (i) in subclause (II), by striking “or
17 October 1, 2002, whichever occurs first”;
18 and

19 (ii) in the matter following subclause
20 (II), by striking “October 1, 2003, or”;
21 and

22 (B) in clause (ii), in the matter following
23 subclause (II)—

24 (i) by striking “before October 1,
25 2003, or”; and

1 (ii) by striking “, whichever occurs
2 first”.

3 **SEC. 304. LOCAL FILING OF BANKRUPTCY CASES.**

4 Section 1408 of title 28, United States Code, is
5 amended—

6 (1) by striking “Except” and inserting “(a) Ex-
7 cept”; and

8 (2) by adding at the end the following:

9 “(b) For the purposes of subsection (a), if the debtor
10 is a corporation, the domicile and residence of the debtor
11 are conclusively presumed to be where the debtor’s prin-
12 cipal place of business in the United States is located.”.

13 **SEC. 305. PERMITTING ASSUMPTION OF CONTRACTS.**

14 (a) Section 365(c) of title 11, United States Code,
15 is amended to read as follows:

16 “(c)(1) The trustee may not assume or assign an ex-
17 ecutory contract or unexpired lease of the debtor, whether
18 or not the contract or lease prohibits or restricts assign-
19 ment of rights or delegation of duties, if—

20 “(A)(i) applicable law excuses a party to the
21 contract or lease from accepting performance from
22 or rendering performance to an assignee of the con-
23 tract or lease, whether or not the contract or lease
24 prohibits or restricts assignment of rights or delega-
25 tion of duties; and

1 “(ii) the party does not consent to the assump-
2 tion or assignment; or

3 “(B) the contract is a contract to make a loan,
4 or extend other debt financing or financial accom-
5 modations, to or for the benefit of the debtor, or to
6 issue a security of the debtor.

7 “(2) Notwithstanding paragraph (1)(A) and applica-
8 ble nonbankruptcy law, in a case under chapter 11 of this
9 title, a trustee in a case in which a debtor is a corporation,
10 or a debtor in possession, may assume an executory con-
11 tract or unexpired lease of the debtor, whether or not the
12 contract or lease prohibits or restricts assignment of rights
13 or delegation of duties.

14 “(3) The trustee may not assume or assign an unex-
15 pired lease of the debtor of nonresidential real property,
16 whether or not the contract or lease prohibits or restricts
17 assignment of rights or delegation of duties, if the lease
18 has been terminated under applicable nonbankruptcy law
19 before the order for relief.”.

20 (b) Section 365(d) of title 11, United States Code,
21 is amended by striking paragraphs (5), (6), (7), (8), and
22 (9), and redesignating paragraph (10) as paragraph (5).

23 (c) Section 365(e) of title 11, United States Code,
24 is amended to read as follows:

1 “(e)(1) Notwithstanding a provision in an executory
2 contract or unexpired lease, or in applicable law, an execu-
3 tory contract or unexpired lease of the debtor may not be
4 terminated or modified, and any right or obligation under
5 such contract or lease may not be terminated or modified,
6 at any time after the commencement of the case solely
7 because of a provision in such contract or lease that is
8 conditioned on—

9 “(A) the insolvency or financial condition of the
10 debtor at any time before the closing of the case;

11 “(B) the commencement of a case under this
12 title; or

13 “(C) the appointment of or taking possession by
14 a trustee in a case under this title or a custodian be-
15 fore such commencement.

16 “(2) Paragraph (1) does not apply to an executory
17 contract or unexpired lease of the debtor if the trustee
18 may not assume or assign, and the debtor in possession
19 may not assume, the contract or lease by reason of the
20 provisions of subsection (c) of this section.”.

21 (d) Section 365(f)(1) of title 11, United States Code,
22 is amended by striking the semicolon and all that follows
23 through “event”.

1 **TITLE IV SMALL BUSINESS**
2 **BANKRUPTCY PROVISIONS**

3 **SEC. 401. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**
4 **AND PLAN.**

5 (a) Section 1125(a)(1) of title 11, United States
6 Code, is amended by inserting before the semicolon follow-
7 ing:

8 “and in determining whether a disclosure statement pro-
9 vides adequate information, the court shall consider the
10 complexity of the case, the benefit of additional informa-
11 tion to creditors and other parties in interest, and the cost
12 of providing additional information”.

13 (b) Section 1125(f) of title 11, United States Code,
14 is amended to read as follows:

15 “(f) Notwithstanding subsection (b)—

16 “(1) the court may determine that the plan
17 itself provides adequate information and that a sepa-
18 rate disclosure statement is not necessary;

19 “(2) the court may approve a disclosure state-
20 ment submitted on standard forms approved by the
21 court or adopted pursuant to section 2075 of title
22 28; and

23 “(3)(A) the court may conditionally approve a
24 disclosure statement subject to final approval after
25 notice and a hearing;

1 “(B) acceptances and rejections of a plan may
2 be solicited based on a conditionally approved disclo-
3 sure statement if the debtor provides adequate infor-
4 mation to each holder of a claim or interest that is
5 solicited, but a conditionally approved disclosure
6 statement shall be mailed not less than 20 days be-
7 fore the date of the hearing on confirmation of the
8 plan; and

9 “(C) the hearing on the disclosure statement may be
10 combined with the hearing on confirmation of a plan.”.

11 **SEC. 402. DEFINITIONS.**

12 (a) DEFINITIONS. Section 101 of title 11, United
13 States Code, is amended by striking paragraph (51C) and
14 inserting the following:

15 “(51C) ‘small business case’ means a case filed
16 under chapter 11 of this title in which the debtor is
17 a small business debtor; and

18 “(51D) ‘small business debtor’ means (A) a
19 person (including affiliates of such person that are
20 also debtors under this title) that has aggregate non-
21 contingent, liquidated secured and unsecured debts
22 as of the date of the petition or the order for relief
23 in an amount not more than \$4,000,000 (excluding
24 debts owed to 1 or more affiliates or insiders), ex-
25 cept that if a group of affiliated debtors has aggre-

1 gate noncontingent liquidated secured and unsecured
2 debts greater than \$4,000,000 (excluding debt owed
3 to 1 or more affiliates or insiders), then no member
4 of such group is a small business debtor;”.

5 (b) CONFORMING AMENDMENT.—Section 1102(a)(3)
6 of title 11, United States Code, is amended by inserting
7 “debtor” after “small business” .

8 **SEC. 403. STANDARD FORM DISCLOSURE STATEMENT AND**
9 **PLAN.**

10 The Advisory Committee on Bankruptcy Rules of the
11 Judicial Conference of the United States shall, within a
12 reasonable period of time after the date of the enactment
13 of this Act, propose for adoption standard form disclosure
14 statements and plans of reorganization for small business
15 debtors (as defined in section 101 of title 11, United
16 States Code, as amended by this Act), designed to achieve
17 a practical balance between—

18 (1) the reasonable needs of the courts, the
19 United States trustee, creditors, and other parties in
20 interest for reasonably complete information; and

21 (2) economy and simplicity for debtors.

22 **SEC. 404. UNIFORM NATIONAL REPORTING REQUIRE-**
23 **MENTS.**

24 (a) REPORTING REQUIRED.—

1 (1) Title 11 of the United States Code is
2 amended by inserting after section 307 the follow-
3 ing:

4 **“§ 308. Debtor reporting requirements**

5 “A small business debtor shall file periodic financial
6 and other reports containing information including—

7 “(1) the debtor’s profitability, that is, approxi-
8 mately how much money the debtor has been earn-
9 ing or losing during current and recent fiscal peri-
10 ods;

11 “(2) reasonable approximations of the debtor’s
12 projected cash receipts and cash disbursements over
13 a reasonable period;

14 “(3) comparisons of actual cash receipts and
15 disbursements with projections in prior reports; and

16 “(4) whether the debtor is—

17 “(A) in compliance in all material respects
18 with postpetition requirements imposed by this
19 title and the Federal Rules of Bankruptcy Pro-
20 cedure; and

21 “(B) timely filing tax returns and paying
22 taxes and other administrative claims when due,
23 and, if not, what the failures are and how, at
24 what cost, and when the debtor intends to rem-
25 edy such failures; and

1 (2) the debtor's cash receipts and disburse-
2 ments; and

3 (3) whether the debtor is timely filing tax re-
4 turns and paying taxes and other administrative
5 claims when due.

6 (b) PURPOSE.—The rules and forms proposed under
7 subsection (a) shall be designed to achieve a practical bal-
8 ance between—

9 (1) the reasonable needs of the bankruptcy
10 court, the United States trustee, creditors, and other
11 parties in interest for reasonably complete informa-
12 tion;

13 (2) the small business debtor's interest that re-
14 quired reports be easy and inexpensive to complete;
15 and

16 (3) the interest of all parties that the required
17 reports help the small business debtor to understand
18 its financial condition and plan its future.

19 **SEC. 406. DUTIES IN SMALL BUSINESS CASES.**

20 (a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the
21 United States Code is amended by inserting after section
22 1114 the following:

1 **“§ 1115. Duties of trustee or debtor in possession in**
2 **small business cases**

3 “(a) In a small business case, a trustee or the debtor
4 in possession, in addition to the duties provided in this
5 title and as otherwise required by law, shall—

6 “(1) append to the voluntary petition or, in an
7 involuntary case, file within 3 days after the date of
8 the order for relief—

9 “(A) its most recent balance sheet, state-
10 ment of operations, cash-flow statement, Fed-
11 eral income tax return; or

12 “(B) a statement made under penalty of
13 perjury that no balance sheet, statement of op-
14 erations, or cash-flow statement has been pre-
15 pared and no Federal tax return has been filed;

16 “(2) attend, through its responsible individual,
17 meetings scheduled by the court or the United
18 States trustee, including initial debtor interviews
19 and meetings of creditors convened under section
20 341 of this title;

21 “(3) timely file all schedules and statements of
22 financial affairs, unless the court, after notice and a
23 hearing, grants an extension, which shall not extend
24 such time period to a date later than 30 days after
25 the date of the order for relief, absent extraordinary
26 and compelling circumstances;

1 “(4) file all postpetition financial and other re-
2 ports required by the Federal Rules of Bankruptcy
3 Procedure or by local rule of the district court;

4 “(5) subject to section 363(c)(2) of this title,
5 maintain insurance customary and appropriate to
6 the industry;

7 “(6)(A) timely file tax returns;

8 “(B) subject to section 363(c)(2) of this title,
9 timely pay all administrative expense tax claims, ex-
10 cept those being contested by appropriate proceed-
11 ings being diligently prosecuted; and

12 “(C) subject to section 363(c)(2) of this title,
13 establish 1 or more separate deposit accounts not
14 later than 10 business days after the date of order
15 for relief (or as soon thereafter as possible if all
16 banks contacted decline the business) and deposit
17 therein, not later than 1 business day after receipt
18 thereof or a responsible time set by the court, all
19 taxes payable for periods beginning after the date
20 the case is commenced that are collected or withheld
21 by the debtor for governmental units unless the
22 court waives this requirement after notice and hear-
23 ing; and

24 “(7) allow the United States trustee, or its des-
25 ignated representative, to inspect the debtor’s busi-

1 ness premises, books, and records at reasonable
2 times, after reasonable prior written notice, unless
3 notice is waived by the debtor.”.

4 (b) **TECHNICAL AMENDMENT.**—The table of sections
5 of chapter 11, United States Code, is amended by insert-
6 ing after the item relating to section 1114 the following:

 “1115. Duties of trustee or debtor in possession in small business cases.”.

7 **SEC. 407. PLAN FILING AND CONFIRMATION DEADLINES.**

8 Section 1121(e) of title 11, United States Code, is
9 amended to read as follows:

10 “(e) In a small business case—

11 “(1) only the debtor may file a plan until after
12 90 days after the date of the order for relief, unless
13 a trustee has been appointed under this chapter, or
14 unless the court, on request of a party in interest
15 and after notice and hearing, shortens such time;

16 “(2) the debtor shall file a plan, and any nec-
17 essary disclosure statement, not later than 90 days
18 after the date of the order for relief, unless the
19 United States Trustee has appointed under section
20 1102(a)(1) of this title a committee of unsecured
21 creditors that the court has determined, before the
22 90 days has expired, is sufficiently active and rep-
23 resentative to provide effective oversight of the debt-
24 or; and

1 “(3) the time periods specified in paragraphs
2 (1) and (2) of this subsection and the time fixed in
3 section 1129(e) of this title for confirmation of a
4 plan, may be extended only as follows:

5 “(A) On request of a party in interest
6 made within the respective periods, and after
7 notice and hearing, the court may for cause
8 grant one or more extensions, cumulatively not
9 to exceed 60 days, if the movant establishes—

10 “(i) that no cause exists to dismiss or
11 convert the case or appoint a trustee or ex-
12 aminer under subparagraphs (A) (I) of
13 section 1112(b) of this title; and

14 “(ii) that there is a reasonable possi-
15 bility the court will confirm a plan within
16 a reasonable time;

17 “(B) On request of a party in interest
18 made within the respective periods, and after
19 notice and hearing, the court may for cause
20 grant one or more extensions in excess of those
21 authorized under subparagraph (A) of this
22 paragraph, if the movant establishes:

23 “(i) that no cause exists to dismiss or
24 convert the case or appoint a trustee or ex-

1 aminer under subparagraphs (A) (I) of
2 section 1112(b)(3) of this title; and

3 “(ii) that it is more likely than not
4 that the court will confirm a plan within a
5 reasonable time; and

6 “(C) a new deadline shall be imposed
7 whenever an extension is granted.”.

8 **SEC. 408. PLAN CONFIRMATION DEADLINE.**

9 Section 1129 of title 11, United States Code, is
10 amended by adding at the end the following:

11 “(e) In a small business case, the debtor shall confirm
12 a plan not later than 150 days after the date of the order
13 for relief unless—

14 “(1) the United States Trustee has appointed,
15 under section 1102(a)(1) of this title, a committee
16 of unsecured creditors that the court has deter-
17 mined, before the 150 days has expired, is suffi-
18 ciently active and representative to provide effective
19 oversight of the debtor; or

20 “(2) such 150-day period is extended as pro-
21 vided in section 1121(e)(3) of this title.”.

22 **SEC. 409. PROHIBITION AGAINST EXTENSION OF TIME.**

23 Section 105(d) of title 11, United States Code, is
24 amended—

1 (1) in paragraph (2)(B)(vi) by striking the pe-
2 riod at the end and inserting “; and”; and

3 (2) by adding at the end the following:

4 “(3) in a small business case, not extend the
5 time periods specified in sections 1121(e) and
6 1129(e) of this title except as provided in section
7 1121(e)(3) of this title.”.

8 **SEC. 410. DUTIES OF THE UNITED STATES TRUSTEE.**

9 (a) DUTIES OF THE UNITED STATES TRUSTEE.—

10 Section 586(a) of title 28, United States Code, is
11 amended—

12 (1) in paragraph (3)—

13 (A) in subparagraph (G) by striking “and
14 at the end”;

15 (B) by redesignating subparagraph (H) as
16 subparagraph (I); and

17 (C) by inserting after subparagraph (G)
18 the following:

19 “(H) in small business cases (as defined in
20 section 101 of title 11), performing the addi-
21 tional duties specified in title 11 pertaining to
22 such cases”;

23 (2) in paragraph (5) by striking “and at the
24 end”;

1 (3) in paragraph (6) by striking the period at
2 the end and inserting “; and”; and

3 (4) by inserting after paragraph (7) the follow-
4 ing:

5 “(7) in each of such small business cases—

6 “(A) conduct an initial debtor interview as
7 soon as practicable after the entry of order for
8 relief but before the first meeting scheduled
9 under section 341(a) of title 11 at which time
10 the United States trustee shall begin to inves-
11 tigate the debtor’s viability, inquire about the
12 debtor’s business plan, explain the debtor’s obli-
13 gations to file monthly operating reports and
14 other required reports, attempt to develop an
15 agreed scheduling order, and inform the debtor
16 of other obligations;

17 “(B) when determined to be appropriate
18 and advisable, visit the appropriate business
19 premises of the debtor and ascertain the state
20 of the debtor’s books and records and verify
21 that the debtor has filed its tax returns; and

22 “(C) review and monitor diligently the
23 debtor’s activities, to identify as promptly as
24 possible whether the debtor will be unable to
25 confirm a plan; and

1 “(8) in cases in which the United States trustee
2 finds material grounds for any relief under section
3 1112 of title 11, the United States trustee shall
4 apply promptly to the court for relief.”.

5 **SEC. 411. SCHEDULING CONFERENCES.**

6 Section 105(d) of title 11, United States Code, is
7 amended—

8 (1) in the matter preceding paragraph (1) by
9 striking “, may”;

10 (2) by amending paragraph (1) to read as fol-
11 lows:

12 “(1) shall hold such status conferences as are
13 necessary to further the expeditious and economical
14 resolution of the case; and”;

15 (3) in paragraph (2) by striking “unless incon-
16 sistent with another provision of this title or with
17 applicable Federal Rules of Bankruptcy Procedure”,
18 and inserting “may”.

19 **SEC. 412. SERIAL FILER PROVISIONS.**

20 Section 362 of title 11, United States Code, as
21 amended by section 302, is amended—

22 (1) in subsection (i) as so redesignated by sec-
23 tion 122—

24 (A) by striking “An” and inserting “(1)
25 Except as provided in paragraph (2), an”;

1 (B) by adding at the end the following:

2 “(2) If such violation is based on an action taken by
3 an entity in the good-faith belief that subsection (h) ap-
4 plies to the debtor, then recovery under paragraph (1)
5 against such entity shall be limited to actual damages.”;
6 and

7 (2) by inserting after subsection (j), as added
8 by section 302, the following:

9 “(k)(1) Except as provided in paragraph (2) of this
10 subsection, the provisions of subsection (a) of this section
11 shall not apply in a case in which the debtor—

12 “(A) is a debtor in a case under this title pend-
13 ing at the time the petition is filed;

14 “(B) was a debtor in a case under this title
15 which was dismissed for any reason by an order that
16 became final in the 2-year period ending on the date
17 of the order for relief entered with respect to the pe-
18 tition;

19 “(C) was a debtor in a case under this title in
20 which a chapter 11, 12, or 13 plan was confirmed
21 in the 2-year period ending on the date of the order
22 for relief entered with respect to the petition; or

23 “(D) is an entity that has succeeded to sub-
24 stantially all of the assets or business of a debtor de-
25 scribed in subparagraph (A), (B), or (C).

1 “(2) This subsection shall not apply—

2 “(A) to a case initiated by an involuntary peti-
3 tion filed by a creditor that is not an insider or affil-
4 iate of the debtor; or

5 “(B) after such time as the debtor, after notice
6 and a hearing, demonstrates by a preponderance of
7 the evidence, that the filing of such petition resulted
8 from circumstances beyond the control of the debtor
9 and not foreseeable at the time the earlier case was
10 filed; and that it is more likely than not that the
11 court will confirm a plan, other than a liquidating
12 plan, within a reasonable time.”.

13 **SEC. 413. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
14 **VERSION AND APPOINTMENT OF TRUSTEE**
15 **OR EXAMINER.**

16 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-
17 VERSION.—Section 1112(b) of title 11, United States
18 Code, is amended to read as follows:

19 “(b)(1) Except as provided in paragraphs (2) and (4)
20 of this subsection, and in subsection (c) of this section,
21 on request of a party in interest, and after notice and a
22 hearing, the court shall convert a case under this chapter
23 to a case under chapter 7 of this title or dismiss a case
24 under this chapter, or appoint a trustee or examiner under
25 section 1104(e) of this title, whichever is in the best inter-

1 est of creditors and the estate, if the movant establishes
2 cause.

3 “(2) The court may decline to grant the relief speci-
4 fied in paragraph (1) of this subsection if the debtor or
5 another party in interest objects and establishes by a pre-
6 ponderance of the evidence that—

7 “(A) it is more likely than not that a plan will
8 be confirmed within a time as fixed by this title or
9 by order of the court entered pursuant to section
10 1121(e)(3), or within a reasonable time if no time
11 has been fixed; and

12 “(B) if the cause is an act or omission of the
13 debtor that—

14 “(i) there exists a reasonable justification
15 for the act or omission; and

16 “(ii) the act or omission will be cured with-
17 in a reasonable time fixed by the court not to
18 exceed 30 days after the court decides the mo-
19 tion, unless the movant expressly consents to a
20 continuance for a specific period of time, or
21 compelling circumstances beyond the control of
22 the debtor justify an extension.

23 “(3) For purposes of this subsection, cause
24 includes—

1 “(A) substantial or continuing loss to or dimi-
2 nution of the estate;

3 “(B) gross mismanagement of the estate;

4 “(C) failure to maintain insurance that poses a
5 material risk to the estate or the public;

6 “(D) unauthorized use of cash collateral harm-
7 ful to 1 or more creditors;

8 “(E) failure to comply with an order of the
9 court;

10 “(F) failure timely to satisfy any filing or re-
11 porting requirement established by this title or by
12 any rule applicable to a case under this chapter;

13 “(G) failure to attend the meeting of creditors
14 convened under section 341(a) of this title;

15 “(H) failure timely to provide information or
16 attend meetings reasonably requested by the United
17 States trustee or bankruptcy administrator;

18 “(I) failure timely to pay taxes due after the
19 date of the order for relief or to file tax returns due
20 after the order for relief;

21 “(J) failure to file a disclosure statement, or to
22 file or confirm a plan, within the time fixed by this
23 title or by order of the court;

24 “(K) failure to pay any fees or charges required
25 under chapter 123 of title 28;

1 “(L) revocation of an order of confirmation
2 under section 1144 of this title;

3 “(M) inability to effectuate substantial con-
4 summation of a confirmed plan;

5 “(N) material default by the debtor with re-
6 spect to a confirmed plan; and

7 “(O) termination of a plan by reason of the oc-
8 currence of a condition specified in the plan.

9 “(4) The court may grant relief under this subsection
10 for cause as defined in subparagraphs C, F, G, H, or K
11 of paragraph 3 of this subsection only upon motion of the
12 United States trustee or bankruptcy administrator or
13 upon the court s own motion.

14 “(5) The court shall commence the hearing on any
15 motion under this subsection not later than 30 days after
16 filing of the motion, and shall decide the motion within
17 15 days after commencement of the hearing, unless the
18 movant expressly consents to a continuance for a specific
19 period of time or compelling circumstances prevent the
20 court from meeting the time limits established by this
21 paragraph.”.

22 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF
23 TRUSTEE OR EXAMINER.—Section 1104 of title 11,
24 United States Code, is amended by adding at the end the
25 following:

1 “(e) If grounds exist to convert or dismiss the case
2 under section 1112 of this title, the court may instead ap-
3 point a trustee or examiner, if it determines that such ap-
4 pointment is in the best interests of creditors and the es-
5 tate.”.

6 **SEC. 414. STUDY OF OPERATION OF TITLE 11 OF THE**
7 **UNITED STATES CODE WITH RESPECT TO**
8 **SMALL BUSINESSES.**

9 Not later than 2 years after the date of the enact-
10 ment of this Act, the Administrator of the Small Business
11 Administration, in consultation with the Attorney General,
12 the Director of the Administrative Office of United States
13 Trustees, and the Director of the Administrative Office
14 of the United States Courts, shall—

15 (1) conduct a study to determine—

16 (A) the internal and external factors that
17 cause small businesses, especially sole propri-
18 etorships, to become debtors in cases under title
19 11 of the United States Code and that cause
20 certain small businesses to successfully com-
21 plete cases under chapter 11 of such title; and

22 (B) how Federal laws relating to bank-
23 ruptcy may be made more effective and efficient
24 in assisting small businesses to remain viable;
25 and

1 (2) submit to the President pro tempore of the
2 Senate and the Speaker of the House of Representa-
3 tives a report summarizing that study.

4 **SEC. 415. PAYMENT OF INTEREST.**

5 Section 362(d)(3) of title 11, United States Code, is
6 amended—

7 (1) by inserting “or 30 days after the court de-
8 termines that the debtor is subject to this para-
9 graph, whichever is later” after “90-day period”;
10 and

11 (2) by amending subparagraph (B) to read as
12 follows:

13 “(B) the debtor has commenced monthly
14 payments (which payments may, in the debtor’s
15 sole discretion, notwithstanding section
16 363(c)(2) of this title, be made from rents or
17 other income generated before or after the com-
18 mencement of the case by or from the property)
19 to each creditor whose claim is secured by such
20 real estate (other than a claim secured by a
21 judgment lien or by an unmatured statutory
22 lien), which payments are in an amount equal
23 to interest at the then-applicable nondefault
24 contract rate of interest on the value of the
25 creditor’s interest in the real estate; or”.

1 **SEC. 416. PROTECTION OF JOBS.**

2 The provisions of title 11 of the United States Code
3 relating to small business debtors or to single asset real
4 estate shall not apply in a case under such title if the ap-
5 plication of any of such provisions in such case could re-
6 sult in the loss of 5 or more jobs.

7 **TITLE V—MUNICIPAL**
8 **BANKRUPTCY PROVISIONS**

9 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**
10 **TION.**

11 (a) TECHNICAL AMENDMENT RELATING TO MUNICI-
12 PALITIES.—Section 921(d) of title 11, United States
13 Code, is amended by inserting “notwithstanding section
14 301(b)” before the period at the end.

15 (b) CONFORMING AMENDMENT.—Section 301 of title
16 11, United States Code, is amended—

17 (1) by inserting “(a)” before “A voluntary”;
18 and

19 (2) by amending the last sentence to read as
20 follows:

21 “(b) The commencement of a voluntary case under
22 a chapter of this title constitutes an order for relief under
23 such chapter.”.

1 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAP-**
2 **TER 9.**

3 Section 901(a) of title 11, United States Code, is
4 amended—

5 (1) by inserting “555, 556,” after “553,”; and

6 (2) by inserting “559, 560, 561, 562” after
7 “557.”.

8 **TITLE VI—STREAMLINING THE**
9 **BANKRUPTCY SYSTEM**

10 **SEC. 601. CREDITOR REPRESENTATION AT FIRST MEETING**
11 **OF CREDITORS.**

12 Section 341(e) of title 11, United States Code, is
13 amended by inserting after the first sentence the follow-
14 ing: “Notwithstanding any local court rule, provision of
15 a State constitution, any other Federal or State law that
16 is not a bankruptcy law, or other requirement that rep-
17 resentation at the meeting of creditors under subsection
18 (a) be by an attorney, a creditor holding a consumer debt
19 or any representative of the creditor (which may include
20 an entity or an employee of an entity and may be a rep-
21 resentative for more than one creditor) shall be permitted
22 to appear at and participate in the meeting of creditors
23 and activities related thereto in a case under chapter 7
24 or 13, either alone or in conjunction with an attorney for
25 the creditor. Nothing in this subsection shall be construed

1 to require any creditor to be represented by an attorney
2 at any meeting of creditors.”.

3 **SEC. 602. AUDIT PROCEDURES.**

4 (a) AMENDMENTS.—Section 586 of title 28, United
5 States Code, is amended—

6 (1) in subsection (a) by amending striking
7 paragraph (6) to read as follows:

8 “(6) make such reports as the Attorney General
9 directs, including the results of audits performed
10 under subsection (f); and”; and

11 (2) by adding at the end the following:

12 “(f)(1)(A) The Attorney General shall establish pro-
13 cedures to determine the accuracy, veracity, and complete-
14 ness of petitions, schedules, and other information which
15 the debtor is required to provide under sections 521 and
16 1322 of title 11, and, if applicable, section 111 of title
17 11, in individual cases filed under chapter 7 or 13 of such
18 title. Such audits shall be in accordance with generally ac-
19 cepted auditing standards and performed by independent
20 certified public accountants or independent licensed public
21 accountants.

22 “(B) Those procedures shall—

23 “(i) establish a method of selecting appropriate
24 qualified persons to contract to perform those au-
25 dits;

1 “(ii) establish a method of randomly selecting
2 cases to be audited, except that not less than 1 out
3 of every 250 cases in each Federal judicial district
4 shall be selected for audit;

5 “(iii) require audits for schedules of income and
6 expenses which reflect greater than average
7 variances from the statistical norm of the district in
8 which the schedules were filed; and

9 “(iv) establish procedures for providing, not less
10 frequently than annually, public information con-
11 cerning the aggregate results of such audits includ-
12 ing the percentage of cases, by district, in which a
13 material misstatement of income or expenditures is
14 reported.

15 “(2) The United States trustee for each district is
16 authorized to contract with auditors to perform audits in
17 cases designated by the United States trustee according
18 to the procedures established under paragraph (1).

19 “(3)(A) The report of each audit conducted under
20 this subsection shall be filed with the court and transmit-
21 ted to the United States trustee. Each report shall clearly
22 and conspicuously specify any material misstatement of
23 income or expenditures or of assets identified by the per-
24 son performing the audit. In any case where a material
25 misstatement of income or expenditures or of assets has

1 been reported, the clerk of the bankruptcy court shall give
2 notice of the misstatement to the creditors in the case.

3 “(B) If a material misstatement of income or expend-
4 itures or of assets is reported, the United States trustee
5 shall—

6 “(i) report the material misstatement, if appro-
7 priate, to the United States Attorney pursuant to
8 section 3057 of title 18, United States Code; and

9 “(ii) if advisable, take appropriate action, in-
10 cluding but not limited to commencing an adversary
11 proceeding to revoke the debtor’s discharge pursuant
12 to section 727(d) of title 11, United States Code.”.

13 (b) AMENDMENTS TO SECTION 521 OF TITLE 11,
14 U.S.C.—Section 521(a) of title 11, United States Code,
15 as amended by section 603, is amended in paragraphs (3)
16 and (4) by adding “or an auditor appointed pursuant to
17 section 586 of title 28, United States Code” after “serving
18 in the case”.

19 (c) AMENDMENTS TO SECTION 727 OF TITLE 11,
20 U.S.C.—Section 727(d) of title 11, United States Code,
21 is amended—

22 (1) by deleting “or” at the end of paragraph
23 (2);

24 (2) by substituting “; or” for the period at the
25 end of paragraph (3); and

1 (3) by adding the following at the end the fol-
2 lowing:

3 “(4) the debtor has failed to explain
4 satisfactorily—

5 “(A) a material misstatement in an audit
6 performed pursuant to section 586(f) of title
7 28, United States Code; or

8 “(B) a failure to make available for inspec-
9 tion all necessary accounts, papers, documents,
10 financial records, files, and all other papers,
11 things, or property belonging to the debtor that
12 are requested for an audit conducted pursuant
13 to section 586(f) of title 28, United States
14 Code.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect 18 months after the date of
17 enactment of this Act.

18 **SEC. 603. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7**

19 **AND 13 CASES.**

20 (a) NOTICE.—Section 342 of title 11, United States
21 Code, is amended—

22 (1) in subsection (c)—

23 (A) by striking “, but the failure of such
24 notice to contain such information shall not in-
25 validate the legal effect of such notice”; and

1 (B) by adding the following at the end:

2 “If the credit agreement between the debtor and the credi-
3 tor or the last communication before the filing of the peti-
4 tion in a voluntary case from the creditor to a debtor who
5 is an individual states an account number of the debtor
6 which is the current account number of the debtor with
7 respect to any debt held by the creditor against the debtor,
8 the debtor shall include such account number in any notice
9 to the creditor required to be given under this title. If the
10 creditor has specified to the debtor an address at which
11 the creditor wishes to receive correspondence regarding
12 the debtor’s account, any notice to the creditor required
13 to be given by the debtor under this title shall be given
14 at such address. For the purposes of this section, ‘notice’
15 shall include, but shall not be limited to, any correspond-
16 ence from the debtor to the creditor after the commence-
17 ment of the case, any statement of the debtor’s intention
18 under section 521(a)(2) of this title, notice of the com-
19 mencement of any proceeding in the case to which the
20 creditor is a party, and any notice of the hearing under
21 section 1324 of this title.”;

22 (2) by adding at the end the following:

23 “(d) At any time, a creditor in a case of an individual
24 debtor under chapter 7 or 13 may file with the court and
25 serve on the debtor a notice of the address to be used to

1 notify the creditor in that case. After 5 days following re-
2 ceipt of such notice, any notice the court or the debtor
3 is required to give the creditor shall be given at that ad-
4 dress.

5 “(e) An entity may file with the court a notice stating
6 its address for notice in cases under chapters 7 and 13.
7 After 30 days following the filing of such notice, any notice
8 in any case filed under chapter 7 or 13 given by the court
9 shall be to that address unless specific notice is given
10 under subsection (d) with respect to a particular case.

11 “(f) Notice given to a creditor other than as provided
12 in this section shall not be effective notice until it has been
13 brought to the attention of the creditor. If the creditor
14 has designated a person or department to be responsible
15 for receiving notices concerning bankruptcy cases and has
16 established reasonable procedures so that bankruptcy no-
17 tices received by the creditor will be delivered to such de-
18 partment or person, notice will not be brought to the at-
19 tention of the creditor until received by such person or
20 department. No sanction under section 362(h) of this title
21 or any other sanction which a court may impose on ac-
22 count of violations of the stay under section 362(a) of this
23 title or failure to comply with section 542 or 543 of this
24 title may be imposed on any action of the creditor unless
25 the action takes place after the creditor has received notice

1 of the commencement of the case effective under this sec-
2 tion.”.

3 (b) DEBTOR’S DUTIES.—Section 521 of title 11,
4 United States Code, as amended by sections 604, 120, and
5 302, is amended—

6 (1) by inserting “(a)” before “The debtor
7 shall—”;

8 (2) by striking paragraph (1) and inserting the
9 following:

10 “(1) file—

11 “(A) a list of creditors; and

12 “(B) unless the court orders otherwise—

13 “(i) a schedule of assets and liabil-
14 ities;

15 “(ii) a schedule of current monthly in-
16 come and current expenditures prepared in
17 accordance with section 707(b)(2);

18 “(iii) a statement of the debtor’s fi-
19 nancial affairs and, if applicable, a
20 certificate—

21 “(I) of an attorney whose name
22 is on the petition as the attorney for
23 the debtor or any bankruptcy petition
24 preparer signing the petition pursuant
25 to section 110(b)(1) of this title indi-

1 cating that such attorney or bank-
2 ruptcy petition preparer delivered to
3 the debtor any notice required by sec-
4 tion 342(b) of this title; or

5 “(II) if no attorney for the debt-
6 or is indicated and no bankruptcy pe-
7 tition preparer signed the petition, of
8 the debtor that such notice was ob-
9 tained and read by the debtor;

10 “(iv) copies of any Federal tax re-
11 turns, including any schedules or attach-
12 ments, filed by the debtor for the 3-year
13 period preceding the order for relief;

14 “(v) copies of all payment advices or
15 other evidence of payment, if any, received
16 by the debtor from any employer of the
17 debtor in the period 60 days prior to the
18 filing of the petition; and

19 “(vi) a statement disclosing any rea-
20 sonably anticipated increase in income or
21 expenditures over the 12-month period fol-
22 lowing the date of filing;”;

23 (3) by adding at the end the following:

24 “(e)(1) At any time, a creditor, in the case of an indi-
25 vidual under chapter 7 or 13, may file with the court no-

1 tice that the creditor requests the petition, schedules, and
2 a statement of affairs filed by the debtor in the case and
3 the court shall make those documents available to the
4 creditor who requests those documents at a reasonable
5 cost within 5 business days after such request.

6 “(2) At any time, a creditor in a case under chapter
7 13 may file with the court notice that the creditor requests
8 the plan filed by the debtor in the case, and the court
9 shall make such plan available to the creditor who requests
10 such plan at a reasonable cost and not later than 5 days
11 after such request.

12 “(f) An individual debtor in a case under chapter 7
13 or 13 shall file with the court—

14 “(1) at the time filed with the taxing authority,
15 all tax returns, including any schedules or attach-
16 ments, with respect to the period from the com-
17 mencement of the case until such time as the case
18 is closed;

19 “(2) at the time filed with the taxing authority,
20 all tax returns, including any schedules or attach-
21 ments, that were not filed with the taxing authority
22 when the schedules under subsection (a)(1) were
23 filed with respect to the period that is 3 years before
24 the order for relief;

1 “(3) any amendments to any of the tax returns,
2 including schedules or attachments, described in
3 paragraph (1) or (2); and

4 “(4) in a case under chapter 13, a statement
5 subject to the penalties of perjury by the debtor of
6 the debtor’s current monthly income and expendi-
7 tures in the preceding tax year and current monthly
8 income less expenditures for the month preceding
9 the statement prepared in accordance with section
10 707(b)(2) that shows how the amounts are
11 calculated—

12 “(A) beginning on the date that is the
13 later of 90 days after the close of the debtor’s
14 tax year or 1 year after the order for relief, un-
15 less a plan has been confirmed; and

16 “(B) thereafter, on or before the date that
17 is 45 days before each anniversary of the con-
18 firmation of the plan until the case is closed.

19 “(g)(1) A statement referred to in subsection (f)(4)
20 shall disclose—

21 “(A) the amount and sources of income of the
22 debtor;

23 “(B) the identity of any persons responsible
24 with the debtor for the support of any dependents of
25 the debtor; and

1 “(C) the identity of any persons who contrib-
2 uted, and the amount contributed, to the household
3 in which the debtor resides.

4 “(2) The tax returns, amendments, and statement of
5 income and expenditures described in paragraph (1) shall
6 be available to the United States trustee, any bankruptcy
7 administrator, any trustee, and any party in interest for
8 inspection and copying, subject to the requirements of
9 subsection (h).

10 “(h)(1) Not later than 30 days after the date of en-
11 actment of the Consumer Bankruptcy Reform Act of
12 1999, the Director of the Administrative Office of the
13 United States Courts shall establish procedures for safe-
14 guarding the confidentiality of any tax information re-
15 quired to be provided under this section.

16 “(2) The procedures under paragraph (1) shall in-
17 clude reasonable restrictions on creditor access to tax in-
18 formation that is required to be provided under this sec-
19 tion to verify creditor identity and to restrict use of the
20 information except with respect to the case.

21 “(3) Not later than 1 year after the date of enact-
22 ment of the Consumer Bankruptcy Reform Act of 1999,
23 the Director of the Administrative Office of the United
24 States Courts shall prepare, and submit to Congress a re-
25 port that—

1 “(A) assesses the effectiveness of the proce-
2 dures under paragraph (1) to provide timely and
3 sufficient information to creditors concerning the
4 case; and

5 “(B) if appropriate, includes proposed
6 legislation—

7 “(i) to further protect the confidentiality of
8 tax information or to make it better available to
9 creditors; and

10 “(ii) to provide penalties for the improper
11 use by any person of the tax information re-
12 quired to be provided under this section.

13 “(i) If requested by the United States trustee or a
14 trustee serving in the case, the debtor provide a document
15 that establishes the identity of the debtor, including a
16 driver’s license, passport, or other document that contains
17 a photograph of the debtor and such other personal identi-
18 fying information relating to the debtor that establishes
19 the identity of the debtor.”.

20 (c) Section 1324 of title 11, United States Code, is
21 amended—

22 (1) by inserting “(a)” before “After”; and

23 (2) by inserting at the end thereof—

24 “(c) Whenever a party in interest is given notice of
25 a hearing on the confirmation or modification of a plan

1 under this chapter, such notice shall include the informa-
2 tion provided by the debtor on the most recent statement
3 filed with the court pursuant to section 521(a)(1)(B)(ii)
4 or (f)(4) of this title.”.

5 **SEC. 604. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
6 **ULES OR PROVIDE REQUIRED INFORMATION.**

7 Section 521 of title 11, United States Code, as
8 amended by section 603 is amended by inserting after sub-
9 section (a) the following:

10 “(b)(1) Notwithstanding section 707(a) of this title,
11 and subject to paragraph (2), if an individual debtor in
12 a voluntary case under chapter 7 or 13 fails to file all
13 of the information required under subsection (a)(1) within
14 45 days after the filing of the petition commencing the
15 case, the case shall be automatically dismissed effective
16 on the 46th day after the filing of the petition.

17 “(2) With respect to a case described in paragraph
18 (1), any party in interest may request the court to enter
19 an order dismissing the case. The court shall, if so re-
20 quested, enter an order of dismissal not later than 5 days
21 after such request.

22 “(3) Upon request of the debtor made within 45 days
23 after the filing of the petition commencing a case de-
24 scribed in paragraph (1), the court may allow the debtor
25 an additional period not to exceed 45 days to file the infor-

1 mation required under subsection (a)(1) if the court finds
2 justification for extending the period for the filing.”.

3 **SEC. 605. ADEQUATE TIME TO PREPARE FOR HEARING ON**
4 **CONFIRMATION OF THE PLAN.**

5 (a) HEARING.—Section 1324 of title 11, United
6 States Code, is amended—

7 (1) by striking “After” and inserting the follow-
8 ing:

9 “(a) Except as provided in subsection (b) and after”;
10 and

11 (2) by adding at the end the following:

12 “(b) The hearing on confirmation of the plan may
13 be held not earlier than 20 days, and not later than 45
14 days, after the meeting of creditors under section 341(a)
15 of this title.”.

16 **SEC. 606. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**
17 **IN CERTAIN CASES.**

18 Title 11, United States Code, is amended—

19 (1) by amending section 1322(d) to read as fol-
20 lows:

21 “(d) If the current monthly income of the debtor and
22 the debtor’s spouse combined, when multiplied by 12, is
23 not less than the highest national median family income
24 last reported by the Bureau of the Census for a family
25 of equal or lesser size or, in the case of a household of

1 1 person, not less than the national median household in-
2 come for 1 earner, the plan may not provide for payments
3 over a period that is longer than 5 years. If the current
4 monthly income of the debtor and the debtor's spouse
5 combined, when multiplied by 12, is less than the highest
6 national median family income for a family of equal or
7 lesser size, or in the case of a household of 1 person, the
8 national median household income for 1 earner, the plan
9 may not provide for payments over a period that is longer
10 than 3 years, unless the court, for cause, approves a longer
11 period, but the court may not approve a period that is
12 longer than 5 years. Notwithstanding the foregoing, the
13 national median family income for a family of more than
14 4 individuals shall be the national median family income
15 last reported by the Bureau of the Census for a family
16 of 4 individuals plus \$583 for each additional member of
17 the family.”;

18 (2) in section 1325(b)(1)(B) as amended by
19 section 130—

20 (A) by striking “three year period” and in-
21 serting “applicable commitment period”; and

22 (B) by inserting at the end of subpara-
23 graph (B) the following: “The ‘applicable com-
24 mitment period’ shall be not less than 5 years
25 if the current monthly income of the debtor and

1 the debtor's spouse combined, when multiplied
2 by 12, is not less than the highest national me-
3 dian family income last reported by the Bureau
4 of the Census for a family of equal or lesser
5 size, or in the case of a household of 1 person,
6 the national median household income for 1
7 earner. Notwithstanding the foregoing, the na-
8 tional median family income for a family of
9 more than 4 individuals shall be the national
10 median family income last reported by the Bu-
11 reau of the Census for a family of 4 individuals
12 plus \$583 for each additional member of the
13 family.”; and

14 (3) in section 1329—

15 (A) by striking in subsection (c) “three
16 years” and inserting “the applicable commit-
17 ment period under section 1325(b)(1)(B)”;

18 (B) by inserting at the end of subsection
19 (c) the following:

20 “The duration period shall be 5 years if the current
21 monthly income of the debtor and the debtor's spouse
22 combined, when multiplied by 12, is not less than the high-
23 est national median family income last reported by the Bu-
24 reau of the Census for a family of equal or lesser size or,
25 in the case of a household of 1 person, the national median

1 household income for 1 earner, as of the date of the modi-
2 fication and shall be 3 years if the current monthly total
3 income of the debtor and the debtor's spouse combined,
4 when multiplied by 12, is less than the highest national
5 median family income last reported by the Bureau of the
6 Census for a family of equal or lesser size or, in the case
7 of a household of 1 person, less than the national median
8 household income for 1 earner as of the date of the modi-
9 fication. Notwithstanding the foregoing, the national me-
10 dian family income for a family of more than 4 individuals
11 shall be the national median family income last reported
12 by the Bureau of the Census for a family of 4 individuals
13 plus \$583 for each additional member of the family.”.

14 **SEC. 607. SENSE OF THE CONGRESS REGARDING EXPAN-**
15 **SION OF RULE 9011 OF THE FEDERAL RULES**
16 **OF BANKRUPTCY PROCEDURE.**

17 It is the sense of the Congress that rule 9011 of the
18 Federal Rules of Bankruptcy Procedure (11 U.S.C. App)
19 should be modified to include a requirement that all docu-
20 ments (including schedules), signed and unsigned, submit-
21 ted to the court or to a trustee by debtors who represent
22 themselves and debtors who are represented by an attor-
23 ney be submitted only after the debtor or the debtor's at-
24 torney has made reasonable inquiry to verify that the in-
25 formation contained in such documents is well grounded

1 in fact, and is warranted by existing law or a good-faith
2 argument for the extension, modification, or reversal of
3 existing law.

4 **SEC. 608. ELIMINATION OF CERTAIN FEES PAYABLE IN**
5 **CHAPTER 11 BANKRUPTCY CASES.**

6 (a) AMENDMENTS.—Section 1930(a)(6) of title 28,
7 United States Code, is amended—

8 (1) in the 1st sentence by striking “until the
9 case is converted or dismissed, whichever occurs
10 first”; and

11 (2) in the 2d sentence—

12 (A) by striking “The” and inserting “Until
13 the plan is confirmed or the case is converted
14 (whichever occurs first) the”; and

15 (B) by striking “less than \$300,000;” and
16 inserting “less than \$300,000. Until the case is
17 converted, dismissed, or closed (whichever oc-
18 curs first and without regard to confirmation of
19 the plan) the fee shall be”.

20 (b) DELAYED EFFECTIVE DATE.—The amendments
21 made by subsection (a) shall take effect on October 1,
22 1999.

1 **SEC. 609. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**
2 **TENDED TO DEPENDENT STUDENTS.**

3 Not later than 1 year after the date of the enactment
4 of this Act, the Comptroller General of the United States
5 shall—

6 (1) conduct a study regarding the impact that
7 the extension of credit to individuals who are—

8 (A) claimed as dependents for purposes of
9 the Internal Revenue Code of 1986; and

10 (B) enrolled in post-secondary educational
11 institutions,

12 has on the rate of cases filed under title 11 of the
13 United States Code; and

14 (2) submit to the Speaker of the House of Rep-
15 resentatives and the President pro tempore of the
16 Senate a report summarizing such study.

17 **SEC. 610. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
18 **CASES.**

19 Section 362(e) of title 11, United States Code, is
20 amended—

21 (1) by inserting “(1)” after “(e)”; and

22 (2) by adding at the end the following:

23 “(2) Notwithstanding paragraph (1), in the case of
24 an individual filing under chapter 7, 11, or 13, the stay
25 under subsection (a) shall terminate on the date that is

1 60 days after a request is made by a party in interest
2 under subsection (d), unless—

3 “(A) a final decision is rendered by the court
4 during the 60-day period beginning on the date of
5 the request; or

6 “(B) that 60-day period is extended—

7 “(i) by agreement of all parties in interest;

8 or

9 “(ii) by the court for such specific period
10 of time as the court finds is required by for
11 good cause as described in findings made by the
12 court.”.

13 **SEC. 611. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**
14 **TER 13.**

15 Section 348(f)(1) of title 11, United States Code, is
16 amended—

17 (1) in subparagraph (A), by striking “and” at
18 the end;

19 (2) in subparagraph (B)—

20 (A) by striking “in the converted case,
21 with allowed secured claims” and inserting
22 “only in a case converted to chapter 11 or 12
23 but not in a case converted to chapter 7, with
24 allowed secured claims in cases under chapters
25 11 and 12”; and

1 (B) by striking the period and inserting “;
2 and”; and

3 (3) by adding at the end the following:

4 “(C) with respect to cases converted from chap-
5 ter 13—

6 “(i) the claim of any creditor holding secu-
7 rity as of the date of the petition shall continue
8 to be secured by that security unless the full
9 amount of such claim determined under appli-
10 cable nonbankruptcy law has been paid in full
11 as of the date of conversion, notwithstanding
12 any valuation or determination of the amount
13 of an allowed secured claim made for the pur-
14 poses of the chapter 13 proceeding; and

15 “(ii) unless a prebankruptcy default has
16 been fully cured pursuant to the plan at the
17 time of conversion, in any proceeding under this
18 title or otherwise, the default shall have the ef-
19 fect given under applicable nonbankruptcy
20 law.”.

21 **SEC. 612. BANKRUPTCY APPEALS.**

22 Title 28 of the United States Code is amended by
23 inserting after section 1292 the following:

1 **“§ 1293. Bankruptcy appeals**

2 “(a) The courts of appeals (other than the United
3 States Court of Appeals for the Federal Circuit) shall have
4 jurisdiction of appeals from the following:

5 “(1) Final orders and judgments entered by
6 bankruptcy courts and district courts in cases under
7 title 11, in proceedings arising under title 11, and
8 in proceedings arising in or related to a case under
9 title 11, including final orders in proceedings regard-
10 ing the automatic stay of section 362 of title 11.

11 “(2) Interlocutory orders entered by bankruptcy
12 courts and district courts granting, continuing,
13 modifying, refusing or dissolving injunctions, or re-
14 fusing to dissolve or modify injunctions in cases
15 under title 11, in proceedings arising under title 11,
16 and in proceedings arising in or related to a case
17 under title 11, other than interlocutory orders in
18 proceedings regarding the automatic stay of section
19 362 of title 11.

20 “(3) Interlocutory orders of bankruptcy courts
21 and district courts entered under section 1104(a) or
22 1121(d) of title 11, or the refusal to enter an order
23 under such section.

24 “(4) An interlocutory order of a bankruptcy
25 court or district court entered in a case under title
26 11, in a proceeding arising under title 11, or in a

1 proceeding arising in or related to a case under title
2 11, if the court of appeals that would have jurisdic-
3 tion of an appeal of a final order entered in such
4 case or such proceeding permits, in its discretion,
5 appeal to be taken from such interlocutory order.

6 “(b) Final decisions, judgments, orders, and decrees
7 entered by a bankruptcy appellate panel under subsection
8 (b) of this section.

9 “(c)(1) The judicial council of a circuit may establish
10 a bankruptcy appellate panel composed of bankruptcy
11 judges in the circuit who are appointed by the judicial
12 council, which panel shall exercise the jurisdiction to re-
13 view orders and judgments of bankruptcy courts described
14 in paragraphs (1)–(4) of subsection (a) of this section
15 unless—

16 “(A) the appellant elects at the time of filing
17 the appeal; or

18 “(B) any other party elects, not later than 10
19 days after service of the notice of the appeal;
20 to have such jurisdiction exercised by the court of appeals.

21 “(2) An appeal to be heard by a bankruptcy appellate
22 panel under this subsection (b) shall be heard by 3 mem-
23 bers of the bankruptcy appellate panel, provided that a
24 member of such panel may not hear an appeal originating

1 in the district for which such member is appointed or des-
2 ignated under section 152 of this title.

3 “(3) If authorized by the Judicial Conference of the
4 United States, the judicial councils of 2 or more circuits
5 may establish a joint bankruptcy appellate panel.”.

6 **SEC. 613. GAO STUDY.**

7 (a) STUDY.—Not later than 270 days after the date
8 of the enactment of this Act, the Comptroller General of
9 the United States shall conduct a study of the feasibility,
10 effectiveness, and cost of requiring trustees appointed
11 under title 11 of the United States Code, or the bank-
12 ruptcy courts, to provide to the Office of Child Support
13 Enforcement promptly after the commencement of cases
14 by individual debtors under such title, the names and so-
15 cial security numbers of such debtors for the purposes of
16 allowing such Office to determine whether such debtors
17 have outstanding obligations for child support (as deter-
18 mined on the basis of information in the Federal Case
19 Registry or other national database).

20 (b) REPORT.—Not later than 300 days after the date
21 of the enactment of this Act, the Comptroller General shall
22 submit to the Speaker of the House of Representatives
23 and the President pro tempore of the Senate, a report con-
24 taining the results of the study required by subsection (a).

1 **TITLE VII—BANKRUPTCY DATA**

2 **SEC. 701. IMPROVED BANKRUPTCY STATISTICS.**

3 (a) AMENDMENT.—Chapter 6 of part I of title 28,
4 United States Code, is amended by adding at the end the
5 following:

6 **“§ 159. Bankruptcy statistics**

7 “(a) The clerk of each district shall compile statistics
8 regarding individual debtors with primarily consumer
9 debts seeking relief under chapters 7, 11, and 13 of title
10 11. Those statistics shall be in a form prescribed by the
11 Director of the Administrative Office of the United States
12 Courts (referred to in this section as the ‘Office’).

13 “(b) The Director shall—

14 “(1) compile the statistics referred to in sub-
15 section (a);

16 “(2) make the statistics available to the public;
17 and

18 “(3) not later than October 31, 2000, and an-
19 nually thereafter, prepare, and submit to Congress a
20 report concerning the information collected under
21 subsection (a) that contains an analysis of the infor-
22 mation.

23 “(c) The compilation required under subsection (b)
24 shall—

1 “(1) be itemized, by chapter, with respect to
2 title 11;

3 “(2) be presented in the aggregate and for each
4 district; and

5 “(3) include information concerning—

6 “(A) the total assets and total liabilities of
7 the debtors described in subsection (a), and in
8 each category of assets and liabilities, as re-
9 ported in the schedules prescribed pursuant to
10 section 2075 of this title and filed by those
11 debtors;

12 “(B) the current monthly income, and av-
13 erage income and average expenses of those
14 debtors as reported on the schedules and state-
15 ments that each such debtor files under sections
16 521 and 1322 of title 11;

17 “(C) the aggregate amount of debt dis-
18 charged in the reporting period, determined as
19 the difference between the total amount of debt
20 and obligations of a debtor reported on the
21 schedules and the amount of such debt reported
22 in categories which are predominantly non-
23 dischargeable;

1 “(D) the average period of time between
2 the filing of the petition and the closing of the
3 case;

4 “(E) for the reporting period—

5 “(i) the number of cases in which a
6 reaffirmation was filed; and

7 “(ii)(I) the total number of reaffirma-
8 tions filed;

9 “(II) of those cases in which a reaffir-
10 mation was filed, the number in which the
11 debtor was not represented by an attorney;
12 and

13 “(III) of those cases, the number of
14 cases in which the reaffirmation was ap-
15 proved by the court;

16 “(F) with respect to cases filed under
17 chapter 13 of title 11, for the reporting
18 period—

19 “(i)(I) the number of cases in which a
20 final order was entered determining the
21 value of property securing a claim in an
22 amount less than the amount of the claim;
23 and

1 “(II) the number of final orders deter-
2 mining the value of property securing a
3 claim issued;

4 “(ii) the number of cases dismissed,
5 the number of cases dismissed for failure
6 to make payments under the plan, the
7 number of cases refiled after dismissal,
8 and the number of cases in which the plan
9 was completed, separately itemized with re-
10 spect to the number of modifications made
11 before completion of the plan, if any; and

12 “(iii) the number of cases in which
13 the debtor filed another case within the 6
14 years previous to the filing;

15 “(G) the number of cases in which credi-
16 tors were fined for misconduct and any amount
17 of punitive damages awarded by the court for
18 creditor misconduct; and

19 “(H) the number of cases in which sanc-
20 tions under rule 9011 of the Federal Rules of
21 Bankruptcy Procedure were imposed against
22 debtor’s counsel and damages awarded under
23 such Rule.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 6 of title 28, United States
3 Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect 18 months after the date of
6 enactment of this Act.

7 **SEC. 702. UNIFORM RULES FOR THE COLLECTION OF BANK-**
8 **RUPTCY DATA.**

9 (a) AMENDMENT.—Title 28 of the United States
10 Code is amended by inserting after section 589a the fol-
11 lowing:

12 **“§ 589b. Bankruptcy data**

13 “(a) RULES.—The Attorney General shall, within a
14 reasonable time after the effective date of this section,
15 issue rules requiring uniform forms for (and from time
16 to time thereafter to appropriately modify and approve)—

17 “(1) final reports by trustees in cases under
18 chapters 7, 12, and 13 of title 11; and

19 “(2) periodic reports by debtors in possession or
20 trustees, as the case may be, in cases under chapter
21 11 of title 11.

22 “(b) REPORTS.—All reports referred to in subsection
23 (a) shall be designed (and the requirements as to place
24 and manner of filing shall be established) so as to facili-
25 tate compilation of data and maximum possible access of

1 the public, both by physical inspection at 1 or more central
2 filing locations, and by electronic access through the Inter-
3 net or other appropriate media.

4 “(c) REQUIRED INFORMATION.—The information re-
5 quired to be filed in the reports referred to in subsection
6 (b) shall be that which is in the best interests of debtors
7 and creditors, and in the public interest in reasonable and
8 adequate information to evaluate the efficiency and practi-
9 cality of the Federal bankruptcy system. In issuing rules
10 proposing the forms referred to in subsection (a), the At-
11 torney General shall strike the best achievable practical
12 balance between—

13 “(1) the reasonable needs of the public for in-
14 formation about the operational results of the Fed-
15 eral bankruptcy system; and

16 “(2) economy, simplicity, and lack of undue
17 burden on persons with a duty to file reports.

18 “(d) FINAL REPORTS.—Final reports proposed for
19 adoption by trustees under chapters 7, 12, and 13 of title
20 11 shall, in addition to such other matters as are required
21 by law or as the Attorney General in the discretion of the
22 Attorney General, shall propose, include with respect to
23 a case under such title—

24 “(1) information about the length of time the
25 case was pending;

1 “(2) assets abandoned;
2 “(3) assets exempted;
3 “(4) receipts and disbursements of the estate;
4 “(5) expenses of administration;
5 “(6) claims asserted;
6 “(7) claims allowed; and
7 “(8) distributions to claimants and claims dis-
8 charged without payment,
9 in each case by appropriate category and, in cases under
10 chapters 12 and 13 of title 11, date of confirmation of
11 the plan, each modification thereto, and defaults by the
12 debtor in performance under the plan.

13 “(e) PERIODIC REPORTS.—Periodic reports proposed
14 for adoption by trustees or debtors in possession under
15 chapter 11 of title 11 shall, in addition to such other mat-
16 ters as are required by law or as the Attorney General,
17 in the discretion of the Attorney General, shall propose,
18 include—

19 “(1) information about the standard industry
20 classification, published by the Department of Com-
21 merce, for the businesses conducted by the debtor;

22 “(2) length of time the case has been pending;

23 “(3) number of full-time employees as at the
24 date of the order for relief and at end of each re-
25 porting period since the case was filed;

1 (1) the national policy of the United States
2 should be that all data held by bankruptcy clerks in
3 electronic form, to the extent such data reflects only
4 public records (as defined in section 107 of title 11
5 of the United States Code), should be released in a
6 usable electronic form in bulk to the public subject
7 to such appropriate privacy concerns and safeguards
8 as the Judicial Conference of the United States may
9 determine; and

10 (2) there should be established a bankruptcy
11 data system in which—

12 (A) a single set of data definitions and
13 forms are used to collect data nationwide; and

14 (B) data for any particular bankruptcy
15 case are aggregated in the same electronic
16 record.

17 **TITLE VIII—BANKRUPTCY TAX**
18 **PROVISIONS**

19 **SEC. 801. TREATMENT OF CERTAIN LIENS.**

20 (a) TREATMENT OF CERTAIN LIENS.—Section 724
21 of title 11, United States Code, is amended—

22 (1) in subsection (b), in the matter preceding
23 paragraph (1), by inserting “(other than to the ex-
24 tent that there is a properly perfected unavoidable
25 tax lien arising in connection with an ad valorem tax

1 on real or personal property of the estate)” after
2 “under this title”;

3 (2) in subsection (b)(2), after “507(a)(1)”, in-
4 sert “(except that such expenses, other than claims
5 for wages, salaries, or commissions which arise after
6 the filing of a petition, shall be limited to expenses
7 incurred under chapter 7 of this title and shall not
8 include expenses incurred under chapter 11 of this
9 title)”;

10 (3) by adding at the end the following:

11 “(e) Before subordinating a tax lien on real or per-
12 sonal property of the estate, the trustee shall—

13 “(1) exhaust the unencumbered assets of the
14 estate; and

15 “(2) in a manner consistent with section 506(c)
16 of this title, recover from property securing an al-
17 lowed secured claim the reasonable, necessary costs
18 and expenses of preserving or disposing of that prop-
19 erty.

20 “(f) Notwithstanding the exclusion of ad valorem tax
21 liens set forth in this section and subject to the require-
22 ments of subsection (e)—

23 “(1) claims for wages, salaries, and commis-
24 sions that are entitled to priority under section
25 507(a)(3) of this title; or

1 “(2) claims for contributions to an employee
2 benefit plan entitled to priority under section
3 507(a)(4) of this title,
4 may be paid from property of the estate which secures
5 a tax lien, or the proceeds of such property.”.

6 (b) DETERMINATION OF TAX LIABILITY.—Section
7 505(a)(2) of title 11, United States Code, is amended—

8 (1) in subparagraph (A), by striking “or” at
9 the end;

10 (2) in subparagraph (B), by striking the period
11 at the end and inserting “; or”; and

12 (3) by adding at the end the following:

13 “(C) the amount or legality of any amount aris-
14 ing in connection with an ad valorem tax on real or
15 personal property of the estate, if the applicable pe-
16 riod for contesting or redetermining that amount
17 under any law (other than a bankruptcy law) has ex-
18 pired.”.

19 **SEC. 802. EFFECTIVE NOTICE TO GOVERNMENT.**

20 (a) EFFECTIVE NOTICE TO GOVERNMENTAL
21 UNITS.—Section 342 of title 11, United States Code, as
22 amended by section 603, is amended by adding at the end
23 the following:

24 “(g) If a debtor lists a governmental unit as a credi-
25 tor in a list or schedule, any notice required to be given

1 by the debtor under this title, any rule, any applicable law,
2 or any order of the court, shall identify the department,
3 agency, or instrumentality through which the debtor is in-
4 debted. The debtor shall identify (with information such
5 as a taxpayer identification number, loan, account or con-
6 tract number, or real estate parcel number, where applica-
7 ble), and describe the underlying basis for the govern-
8 mental unit's claim. If the debtor's liability to a govern-
9 mental unit arises from a debt or obligation owed or in-
10 curred by another individual, entity, or organization, or
11 under a different name, the debtor shall identify such indi-
12 vidual, entity, organization, or name.

13 “(h) The clerk shall keep and update quarterly, in
14 the form and manner as the Director of the Administra-
15 tive Office of the United States Courts prescribes, and
16 make available to debtors, a register in which a govern-
17 mental unit may designate a safe harbor mailing address
18 for service of notice in cases pending in the district. A
19 governmental unit may file a statement with the clerk des-
20 ignating a safe harbor address to which notices are to be
21 sent, unless such governmental unit files a notice of
22 change of address.”.

23 (b) ADOPTION OF RULES PROVIDING NOTICE.—The
24 Advisory Committee on Bankruptcy Rules of the Judicial
25 Conference shall, within a reasonable period of time after

1 the date of the enactment of this Act, propose for adoption
2 enhanced rules for providing notice to State, Federal, and
3 local government units that have regulatory authority over
4 the debtor or which may be creditors in the debtor's case.
5 Such rules shall be reasonably calculated to ensure that
6 notice will reach the representatives of the governmental
7 unit, or subdivision thereof, who will be the proper persons
8 authorized to act upon the notice. At a minimum, the rules
9 should require that the debtor—

10 (1) identify in the schedules and the notice, the
11 subdivision, agency, or entity in respect of which
12 such notice should be received;

13 (2) provide sufficient information (such as case
14 captions, permit numbers, taxpayer identification
15 numbers, or similar identifying information) to per-
16 mit the governmental unit or subdivision thereof, en-
17 titled to receive such notice, to identify the debtor or
18 the person or entity on behalf of which the debtor
19 is providing notice where the debtor may be a suc-
20 cessor in interest or may not be the same as the per-
21 son or entity which incurred the debt or obligation;
22 and

23 (3) identify, in appropriate schedules, served to-
24 gether with the notice, the property in respect of
25 which the claim or regulatory obligation may have

1 arisen, if any, the nature of such claim or regulatory
2 obligation and the purpose for which notice is being
3 given.

4 (c) EFFECT OF FAILURE OF NOTICE.—Section 342
5 of title 11, United States Code, as amended by section
6 603 and subsection (a), is amended by adding at the end
7 the following:

8 “(i) A notice that does not comply with subsections
9 (d) and (e) shall not be effective unless the debtor dem-
10 onstrates, by clear and convincing evidence, that timely
11 notice was given in a manner reasonably calculated to sat-
12 isfy the requirements of this section was given, and that—

13 “(1) either the notice was timely sent to the
14 safe harbor address provided in the register main-
15 tained by the clerk of the district in which the case
16 was pending for such purposes; or

17 “(2) no safe harbor address was provided in
18 such list for the governmental unit and that an offi-
19 cer of the governmental unit who is responsible for
20 the matter or claim had actual knowledge of the case
21 in sufficient time to act.”.

22 **SEC. 803. NOTICE OF REQUEST FOR A DETERMINATION OF**
23 **TAXES.**

24 Section 505(b) of title 11, United States Code, is
25 amended by striking “Unless” at the beginning of the sec-

1 ond sentence thereof and inserting “If the request is made
2 substantially in the manner designated by the govern-
3 mental unit and unless”.

4 **SEC. 804. RATE OF INTEREST ON TAX CLAIMS.**

5 (a) AMENDMENT.—Chapter 5 of title 11, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 511. Rate of interest on tax claims**

9 “If any provision of this title requires the payment
10 of interest on a tax claim or requires the payment of inter-
11 est to enable a creditor to receive the present value of the
12 allowed amount of a tax claim, the rate of interest shall
13 be as follows:

14 “(1) In the case of ad valorem tax claims,
15 whether secured or unsecured, other unsecured tax
16 claims where interest is required to be paid under
17 section 726(a)(5) of this title, secured tax claims,
18 and administrative tax claims paid under section
19 503(b)(1) of this title, the rate shall be determined
20 under applicable nonbankruptcy law.

21 “(2) In the case of all other tax claims, the
22 minimum rate of interest shall be the Federal short-
23 term rate rounded to the nearest full percent, deter-
24 mined under section 1274(d) of the Internal Reve-
25 nue Code of 1986, plus 3 percentage points.

1 “(A) In the case of claims for Federal in-
2 come taxes, such rate shall be subject to any
3 adjustment that may be required under section
4 6621(d) of the Internal Revenue Code of 1986.

5 “(B) In the case of taxes paid under a con-
6 firmed plan or reorganization, such rate shall
7 be determined as of the calendar month in
8 which the plan is confirmed.”.

9 (b) CONFORMING AMENDMENT.—The table of sec-
10 tions of chapter 5 of title 11, United States Code, is
11 amended by inserting after the item relating to section
12 510 the following:

 “511. Rate of interest on tax claims.”.

13 **SEC. 805. TOLLING OF PRIORITY OF TAX CLAIM TIME PERI-**
14 **ODS.**

15 Section 507(a)(8)(A) of title 11, United States Code,
16 as so redesignated, is amended—

17 (1) in clause (i) by inserting after “petition”
18 and before the semicolon “, plus any time, plus 6
19 months, during which the stay of proceedings was in
20 effect in a prior case under this title”; and

21 (2) amend clause (ii) to read as follows:

22 “(ii) assessed within 240 days before
23 the date of the filing of the petition, exclu-
24 sive of—

1 “(I) any time plus 30 days dur-
2 ing which an offer in compromise with
3 respect of such tax, was pending or in
4 effect during such 240-day period;

5 “(II) any time plus 30 days dur-
6 ing which an installment agreement
7 with respect of such tax was pending
8 or in effect during such 240-day pe-
9 riod, up to 1 year; and

10 “(III) any time plus 6 months
11 during which a stay of proceedings
12 against collections was in effect in a
13 prior case under this title during such
14 240-day period.”.

15 **SEC. 806. PRIORITY PROPERTY TAXES INCURRED.**

16 Section 507(a)(8)(B) of title 11, United States Code,
17 is amended by striking “assessed” and inserting “in-
18 curred”.

19 **SEC. 807. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**
20 **OTHER TAXES.**

21 Section 1328(a)(2) of title 11, United States Code,
22 is amended by inserting “(1),” after “paragraph”.

23 **SEC. 808. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

24 Section 1141(d) of title 11, United States Code, is
25 amended by adding at the end the following:

1 “(6) Notwithstanding the provisions of paragraph
2 (1), the confirmation of a plan does not discharge a debtor
3 which is a corporation from any debt for a tax or customs
4 duty with respect to which the debtor made a fraudulent
5 return or willfully attempted in any manner to evade or
6 defeat such tax.”.

7 **SEC. 809. STAY OF TAX PROCEEDINGS.**

8 (a) SECTION 362 STAY LIMITED TO PREPETITION
9 TAXES.—Section 362(a)(8) of title 11, United States
10 Code, is amended by striking the period at the end and
11 inserting “, in respect of a tax liability for a taxable period
12 ending before the order for relief.”.

13 (b) APPEAL OF TAX COURT DECISIONS PER-
14 MITTED.—Section 362(b)(9) of title 11, United States
15 Code, is amended—

16 (1) in subparagraph (C) by striking “or” at the
17 end;

18 (2) in subparagraph (D) by striking the period
19 at the end and inserting “; or”; and

20 (3) by adding at the end the following:

21 “(E) the appeal of a decision by a court or
22 administrative tribunal which determines a tax
23 liability of the debtor without regard to whether
24 such determination was made prepetition or
25 postpetition.”.

1 **SEC. 810. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**
2 **CASES.**

3 Section 1129(a)(9) of title 11, United States Code,
4 is amended—

5 (1) in subparagraph (B) by striking “and” at
6 the end; and

7 (2) in subparagraph (C)—

8 (A) by striking “deferred cash payments,
9 over a period not exceeding six years after the
10 date of assessment of such claim,” and insert-
11 ing “regular installment payments in cash, but
12 in no case with a balloon provision, and no
13 more than three months apart, beginning no
14 later than the effective date of the plan and
15 ending on the earlier of five years after the pe-
16 tition date or the last date payments are to be
17 made under the plan to unsecured creditors,”;

18 (B) by striking the period at the end and
19 inserting “; and”; and

20 (3) by adding at the end the following:

21 “(D) with respect to a secured claim which
22 would be described in section 507(a)(8) of this
23 title but for its secured status, the holder of
24 such claim will receive on account of such claim
25 cash payments of not less than is required in

1 subparagraph (C) and over a period no greater
2 than is required in such subparagraph.”.

3 **SEC. 811. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
4 **ITED.**

5 Section 545(2) of title 11, United States Code, is
6 amended by striking the semicolon at the end and insert-
7 ing “, except where such purchaser is a purchaser de-
8 scribed in section 6323 of the Internal Revenue Code of
9 1986 or similar provision of State or local law;”.

10 **SEC. 812. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
11 **NESS.**

12 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of
13 title 28, United States Code, is amended—

14 (1) by inserting “(a)” before “Any”; and

15 (2) by adding at the end the following:

16 “(b) Such taxes shall be paid when due in the conduct
17 of such business unless—

18 “(1) the tax is a property tax secured by a lien
19 against property that is abandoned within a reason-
20 able time after the lien attaches, by the trustee of
21 a bankruptcy estate, pursuant to section 554 of title
22 11; or

23 “(2) payment of the tax is excused under a spe-
24 cific provision of title 11.

1 “(c) In a case pending under chapter 7 of title 11,
2 payment of a tax may be deferred until final distribution
3 is made under section 726 of title 11 if—

4 “(1) the tax was not incurred by a trustee duly
5 appointed under chapter 7 of title 11; or

6 “(2) before the due date of the tax, the court
7 has made a finding of probable insufficiency of
8 funds of the estate to pay in full the administrative
9 expenses allowed under section 503(b) of title 11
10 that have the same priority in distribution under
11 section 726(b) of title 11 as such tax.”.

12 (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—
13 Section 503(b)(1)(B) of title 11, United States Code, is
14 amended in clause (i) by inserting after “estate,” and be-
15 fore “except” the following: “whether secured or unse-
16 cured, including property taxes for which liability is in rem
17 only, in personam or both,”.

18 (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE
19 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of
20 title 11, United States Code, is amended by adding at the
21 end the following:

22 “(D) notwithstanding the requirements of sub-
23 section (a) of this section, a governmental unit shall
24 not be required to file a request for the payment of
25 a claim described in subparagraph (B) or (C);”.

1 (d) PAYMENT OF TAXES AND FEES AS SECURED
2 CLAIMS.—Section 506 of title 11, United States Code, is
3 amended—

4 (1) in subsection (b) by inserting “or State
5 statute” after “agreement”; and

6 (2) in subsection (c) by inserting “, including
7 the payment of all ad valorem property taxes in re-
8 spect of the property” before the period at the end.

9 **SEC. 813. TARDILY FILED PRIORITY TAX CLAIMS.**

10 Section 726(a)(1) of title 11, United States Code, is
11 amended by striking “before the date on which the trustee
12 commences distribution under this section” and inserting
13 “on or before the earlier of 10 days after the mailing to
14 creditors of the summary of the trustee’s final report or
15 the date on which the trustee commences final distribution
16 under this section”.

17 **SEC. 814. INCOME TAX RETURNS PREPARED BY TAX AU-**
18 **THORITIES.**

19 Section 523(a)(1)(B) of title 11, United States Code,
20 is amended—

21 (1) by inserting “or equivalent report or no-
22 tice,” after “a return,”;

23 (2) in clause (i)—

24 (A) by inserting “or given” after “filed”;

25 and

1 (B) by striking “or” at the end;

2 (3) in clause (ii)—

3 (A) by inserting “or given” after “filed”;

4 and

5 (B) by inserting “, report, or notice” after

6 “return”; and

7 (4) by adding at the end the following:

8 “(iii) for purposes of this subsection,

9 a return—

10 “(I) must satisfy the require-

11 ments of applicable nonbankruptcy

12 law, and includes a return prepared

13 pursuant to section 6020(a) of the In-

14 ternal Revenue Code of 1986, or simi-

15 lar State or local law, or a written

16 stipulation to a judgment entered by a

17 nonbankruptcy tribunal, but does not

18 include a return made pursuant to

19 section 6020(b) of the Internal Reve-

20 nue Code of 1986, or similar State or

21 local law; and

22 “(II) must have been filed in a

23 manner permitted by applicable non-

24 bankruptcy law; or”.

1 **SEC. 815. DISCHARGE OF THE ESTATE'S LIABILITY FOR UN-**
2 **PAID TAXES.**

3 Section 505(b) of title 11, United States Code, is
4 amended in the second sentence by inserting "the estate,"
5 after "misrepresentation,".

6 **SEC. 816. REQUIREMENT TO FILE TAX RETURNS TO CON-**
7 **FIRM CHAPTER 13 PLANS.**

8 (a) **FILING OF PREPETITION TAX RETURNS RE-**
9 **QUIRED FOR PLAN CONFIRMATION.**—Section 1325(a) of
10 title 11, United States Code, as amended by section 140,
11 is amended—

12 (1) in paragraph (6) by striking "and" at the
13 end;

14 (2) in paragraph (7) by striking the period at
15 the end and inserting "; and"; and

16 (3) by adding at the end the following:

17 "(8) if the debtor has filed all Federal, State,
18 and local tax returns as required by section 1308 of
19 this title."

20 (b) **ADDITIONAL TIME PERMITTED FOR FILING TAX**
21 **RETURNS.**—(1) Chapter 13 of title 11, United States
22 Code, as amended by section 135, is amended by adding
23 at the end the following:

24 **"§ 1308. Filing of prepetition tax returns**

25 "(a) On or before the day prior to the day on which
26 the first meeting of the creditors is convened under section

1 341(a) of this title, the debtor shall have filed with appro-
2 priate tax authorities all tax returns for all taxable periods
3 ending in the 3-year period ending on the date of filing
4 of the petition.

5 “(b) If the tax returns required by subsection (a)
6 have not been filed by the date on which the first meeting
7 of creditors is convened under section 341(a) of this title,
8 the trustee may continue such meeting for a reasonable
9 period of time, to allow the debtor additional time to file
10 any unfiled returns, but such additional time shall be no
11 more than—

12 “(1) for returns that are past due as of the
13 date of the filing of the petition, 120 days from such
14 date;

15 “(2) for returns which are not past due as of
16 the date of the filing of the petition, the later of 120
17 days from such date or the due date for such re-
18 turns under the last automatic extension of time for
19 filing such returns to which the debtor is entitled,
20 and for which request has been timely made, accord-
21 ing to applicable nonbankruptcy law; and

22 “(3) upon notice and hearing, and order en-
23 tered before the lapse of any deadline fixed accord-
24 ing to this subsection, where the debtor dem-
25 onstrates, by clear and convincing evidence, that the

1 failure to file the returns as required is because of
2 circumstances beyond the control of the debtor, the
3 court may extend the deadlines set by the trustee as
4 provided in this subsection for—

5 “(A) a period of no more than 30 days for
6 returns described in paragraph (1) of this sub-
7 section; and

8 “(B) for no more than the period of time
9 ending on the applicable extended due date for
10 the returns described in paragraph (2).

11 “(c) For purposes of this section only, a return in-
12 cludes a return prepared pursuant to section 6020 (a) or
13 (b) of the Internal Revenue Code of 1986 or similar State
14 or local law, or a written stipulation to a judgment entered
15 by a nonbankruptcy tribunal.”.

16 (2) The table of sections of chapter 13 of title 11,
17 United States Code, is amended by inserting after the
18 item relating to section 1307 the following:

“1308. Filing of prepetition tax returns.”.

19 (c) DISMISSAL OR CONVERSION ON FAILURE TO
20 COMPLY.—Section 1307 of title 11, United States Code,
21 is amended—

22 (1) by redesignating subsections (e) and (f) as
23 subsections (f) and (g), respectively; and

24 (2) by inserting after subsection (d) the follow-
25 ing:

1 “(e) Upon the failure of the debtor to file tax returns
2 under section 1308 of this title, on request of a party in
3 interest or the United States trustee and after notice and
4 a hearing, the court shall dismiss a case or convert a case
5 under this chapter to a case under chapter 7 of this title,
6 whichever is in the best interests of creditors and the es-
7 tate.”.

8 (d) **TIMELY FILED CLAIMS.**—Section 502(b)(9) of
9 title 11, United States Code, is amended by striking the
10 period at the end and inserting “, and except that in a
11 case under chapter 13 of this title, a claim of a govern-
12 mental unit for a tax in respect of a return filed under
13 section 1308 of this title shall be timely if it is filed on
14 or before 60 days after such return or returns were filed
15 as required.”.

16 (e) **RULES FOR OBJECTIONS TO CLAIMS AND TO**
17 **CONFIRMATION.**—It is the sense of the Congress that the
18 Advisory Committee on Bankruptcy Rules of the Judicial
19 Conference should, within a reasonable period of time
20 after the date of the enactment of this Act, propose for
21 adoption amended Federal Rules of Bankruptcy Proce-
22 dure which provide that—

23 (1) notwithstanding the provisions of Rule
24 3015(f), in cases under chapter 13 of title 11,
25 United States Code, a governmental unit may object

1 to the confirmation of a plan on or before 60 days
2 after the debtor files all tax returns required under
3 sections 1308 and 1325(a)(7) of title 11, United
4 States Code; and

5 (2) in addition to the provisions of Rule 3007,
6 in a case under chapter 13 of title 11, United States
7 Code, no objection to a tax in respect of a return re-
8 quired to be filed under such section 1308 shall be
9 filed until such return has been filed as required.

10 **SEC. 817. STANDARDS FOR TAX DISCLOSURE.**

11 Section 1125(a) of title 11, United States Code, is
12 amended in paragraph (1)—

13 (1) by inserting after “records,” the following:
14 “including a full discussion of the potential material
15 Federal, State, and local tax consequences of the
16 plan to the debtor, any successor to the debtor, and
17 a hypothetical investor domiciled in the State in
18 which the debtor resides or has its principal place of
19 business typical of the holders of claims or interests
20 in the case,”;

21 (2) by inserting “such” after “enable”; and

22 (3) by striking “reasonable” where it appears
23 after “hypothetical” and by striking “typical of hold-
24 ers of claims or interests” after “investor”.

1 **SEC. 818. SETOFF OF TAX REFUNDS.**

2 Section 362(b) of title 11, United States Code, as
3 amended by sections 118, 132, 136, and 203, is
4 amended—

5 (1) in paragraph (29) by striking “or”;

6 (2) in paragraph (30) by striking the period at
7 the end and inserting “; or”; and

8 (3) by inserting after paragraph (30) the fol-
9 lowing:

10 “(31) under subsection (a) of the setoff of an
11 income tax refund, by a governmental unit, in re-
12 spect of a taxable period which ended before the
13 order for relief against an income tax liability for a
14 taxable period which also ended before the order for
15 relief, unless—

16 “(A) prior to such setoff, an action to de-
17 termine the amount or legality of such tax li-
18 ability under section 505(a) was commenced; or

19 “(B) where the setoff of an income tax re-
20 fund is not permitted because of a pending ac-
21 tion to determine the amount or legality of a
22 tax liability, the governmental unit may hold
23 the refund pending the resolution of the ac-
24 tion.”.

1 **TITLE IX—ANCILLARY AND**
2 **OTHER CROSS-BORDER CASES**

3 **SEC. 901. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
4 **UNITED STATES CODE.**

5 (a) IN GENERAL.—Title 11, United States Code, is
6 amended by inserting after chapter 13 the following:

7 **“CHAPTER 15—ANCILLARY AND OTHER**
8 **CROSS-BORDER CASES**

“Sec.

“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.

“1503. International obligations of the United States.

“1504. Commencement of ancillary case.

“1505. Authorization to act in a foreign country.

“1506. Public policy exception.

“1507. Additional assistance.

“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND
CREDITORS TO THE COURT

“1509. Right of direct access.

“1510. Limited jurisdiction.

“1511. Commencement of case under section 301 or 303.

“1512. Participation of a foreign representative in a case under this title.

“1513. Access of foreign creditors to a case under this title.

“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING
AND RELIEF

“1515. Application for recognition of a foreign proceeding.

“1516. Presumptions concerning recognition.

“1517. Order recognizing a foreign proceeding.

“1518. Subsequent information.

“1519. Relief that may be granted upon petition for recognition of a foreign
proceeding.

“1520. Effects of recognition of a foreign main proceeding.

“1521. Relief that may be granted upon recognition of a foreign proceeding.

“1522. Protection of creditors and other interested persons.

“1523. Actions to avoid acts detrimental to creditors.

“1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND
FOREIGN REPRESENTATIVES

- “1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
- “1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
- “1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

- “1528. Commencement of a case under this title after recognition of a foreign main proceeding.
- “1529. Coordination of a case under this title and a foreign proceeding.
- “1530. Coordination of more than 1 foreign proceeding.
- “1531. Presumption of insolvency based on recognition of a foreign main proceeding.
- “1532. Rule of payment in concurrent proceedings.

1 **“§ 1501. Purpose and scope of application**

2 “(a) The purpose of this chapter is to incorporate the
3 Model Law on Cross-Border Insolvency so as to provide
4 effective mechanisms for dealing with cases of cross-border
5 insolvency with the objectives of—

6 “(1) cooperation between—

7 “(A) United States courts, United States
8 trustees, trustees, examiners, debtors, and debtors
9 in possession; and

10 “(B) the courts and other competent au-
11 thorities of foreign countries involved in cross-
12 border insolvency cases;

13 “(2) greater legal certainty for trade and in-
14 vestment;

15 “(3) fair and efficient administration of cross-
16 border insolvencies that protects the interests of all

1 creditors, and other interested entities, including the
2 debtor;

3 “(4) protection and maximization of the value
4 of the debtor’s assets; and

5 “(5) facilitation of the rescue of financially
6 troubled businesses, thereby protecting investment
7 and preserving employment.

8 “(b) This chapter applies where—

9 “(1) assistance is sought in the United States
10 by a foreign court or a foreign representative in con-
11 nection with a foreign proceeding;

12 “(2) assistance is sought in a foreign country in
13 connection with a case under this title;

14 “(3) a foreign proceeding and a case under this
15 title with respect to the same debtor are taking place
16 concurrently; or

17 “(4) creditors or other interested persons in a
18 foreign country have an interest in requesting the
19 commencement of, or participating in, a case or pro-
20 ceeding under this title.

21 “(c) This chapter does not apply to—

22 “(1) a proceeding concerning an entity identi-
23 fied by exclusion in subsection 109(b);

24 “(2) an individual, or to an individual and such
25 individual’s spouse, who have debts within the limits

1 specified in section 109(e) and who are citizens of
2 the United States or aliens lawfully admitted for
3 permanent residence in the United States; or

4 “(3) an entity subject to a proceeding under the
5 Securities Investor Protection Act, a stockbroker
6 subject to subchapter III of chapter 7 of this title,
7 or a commodity broker subject to subchapter IV of
8 chapter 7 of this title.

9 “SUBCHAPTER I—GENERAL PROVISIONS

10 **“§ 1502. Definitions**

11 “For the purposes of this chapter, the term—

12 “(1) ‘debtor’ means an entity that is the subject
13 of a foreign proceeding;

14 “(2) ‘establishment’ means any place of oper-
15 ations where the debtor carries out a nontransitory
16 economic activity;

17 “(3) ‘foreign court’ means a judicial or other
18 authority competent to control or supervise a foreign
19 proceeding;

20 “(4) ‘foreign main proceeding’ means a foreign
21 proceeding taking place in the country where the
22 debtor has the center of its main interests;

23 “(5) ‘foreign nonmain proceeding’ means a for-
24 eign proceeding, other than a foreign main proceed-

1 ing, taking place in a country where the debtor has
2 an establishment;

3 “(6) ‘trustee’ includes a trustee, a debtor in
4 possession in a case under any chapter of this title,
5 or a debtor under chapter 9 of this title; and

6 “(7) ‘within the territorial jurisdiction of the
7 United States’ when used with reference to property
8 of a debtor refers to tangible property located within
9 the territory of the United States and intangible
10 property deemed under applicable nonbankruptcy
11 law to be located within that territory, including any
12 property subject to attachment or garnishment that
13 may properly be seized or garnished by an action in
14 a Federal or State court in the United States.

15 **“§ 1503. International obligations of the United States**

16 “To the extent that this chapter conflicts with an ob-
17 ligation of the United States arising out of any treaty or
18 other form of agreement to which it is a party with 1 or
19 more other countries, the requirements of the treaty or
20 agreement prevail.

21 **“§ 1504. Commencement of ancillary case**

22 “A case under this chapter is commenced by the filing
23 of a petition for recognition of a foreign proceeding under
24 section 1515.

1 **“§ 1505. Authorization to act in a foreign country**

2 “A trustee or another entity (including an examiner)
3 may be authorized by the court to act in a foreign country
4 on behalf of an estate created under section 541. An entity
5 authorized to act under this section may act in any way
6 permitted by the applicable foreign law.

7 **“§ 1506. Public policy exception**

8 “Nothing in this chapter prevents the court from re-
9 fusing to take an action governed by this chapter if the
10 action would be manifestly contrary to the public policy
11 of the United States.

12 **“§ 1507. Additional assistance**

13 “(a) Subject to the specific limitations stated else-
14 where in this chapter the court, upon recognition of a for-
15 eign proceeding, the court may provide additional assist-
16 ance to a foreign representative under this title or under
17 other laws of the United States.

18 “(b) In determining whether to provide additional as-
19 sistance under this title or under other laws of the United
20 States, the court shall consider whether such additional
21 assistance, consistent with the principles of comity, will
22 reasonably assure—

23 “(1) just treatment of all holders of claims
24 against or interests in the debtor’s property;

1 “(2) protection of claim holders in the United
2 States against prejudice and inconvenience in the
3 processing of claims in such foreign proceeding;

4 “(3) prevention of preferential or fraudulent
5 dispositions of property of the debtor;

6 “(4) distribution of proceeds of the debtor’s
7 property substantially in accordance with the order
8 prescribed by this title; and

9 “(5) if appropriate, the provision of an oppor-
10 tunity for a fresh start for the individual that such
11 foreign proceeding concerns.

12 **“§ 1508. Interpretation**

13 “In interpreting this chapter, the court shall consider
14 its international origin, and the need to promote an appli-
15 cation of this chapter that is consistent with the applica-
16 tion of similar statutes adopted by foreign jurisdictions.

17 **“SUBCHAPTER II—ACCESS OF FOREIGN REP-**
18 **RESENTATIVES AND CREDITORS TO THE**
19 **COURT**

20 **“§ 1509. Right of direct access**

21 “(a) A foreign representative may commence a case
22 under section 1504 of this title by filing with the court
23 a petition for recognition of a foreign proceeding under
24 section 1515 of this title.

1 “(b) If the court grants recognition under section
2 1515 of this title, and subject to any limitations that the
3 court may impose consistent with the policy of this
4 chapter—

5 “(1) the foreign representative has the capacity
6 to sue and be sued in a court in the United States;

7 “(2) the foreign representative may apply di-
8 rectly to a court in the United States for appropriate
9 relief in that court; and

10 “(3) a court in the United States shall grant
11 comity or cooperation to the foreign representative.

12 “(c) A request for comity or cooperation by a foreign
13 representative in a court in the United States shall be ac-
14 companied by a certified copy of an order granting rec-
15 ognition under section 1517 of this title.

16 “(d) If the court denies recognition under this chap-
17 ter, the court may issue any appropriate order necessary
18 to prevent the foreign representative from obtaining com-
19 ity or cooperation from courts in the United States.

20 “(e) Whether or not the court grants recognition, and
21 subject to sections 306 and 1510 of this title, a foreign
22 representative is subject to applicable nonbankruptcy law.

23 “(f) Notwithstanding any other provision of this sec-
24 tion, the failure of a foreign representative to commence
25 a case or to obtain recognition under this chapter does

1 not affect any right the foreign representative may have
2 to sue in a court in the United State to collect or recover
3 a claim which is the property of the debtor.”.

4 **“§ 1510. Limited jurisdiction**

5 “The sole fact that a foreign representative files a
6 petition under section 1515 does not subject the foreign
7 representative to the jurisdiction of any court in the
8 United States for any other purpose.

9 **“§ 1511. Commencement of case under section 301 or**
10 **303**

11 “(a) Upon recognition, a foreign representative may
12 commence—

13 “(1) an involuntary case under section 303; or

14 “(2) a voluntary case under section 301 or 302,
15 if the foreign proceeding is a foreign main proceed-
16 ing.

17 “(b) The petition commencing a case under sub-
18 section (a) must be accompanied by certified copy of an
19 order granting recognition. The court where the petition
20 for recognition has been filed must be advised of the for-
21 eign representative’s intent to commence a case under sub-
22 section (a) prior to such commencement.

1 **“§ 1512. Participation of a foreign representative in a**
2 **case under this title**

3 “Upon recognition of a foreign proceeding, the for-
4 eign representative in that proceeding is entitled to par-
5 ticipate as a party in interest in a case regarding the debt-
6 or under this title.

7 **“§ 1513. Access of foreign creditors to a case under**
8 **this title**

9 “(a) Foreign creditors have the same rights regarding
10 the commencement of, and participation in, a case under
11 this title as domestic creditors.

12 “(b)(1) Subsection (a) does not change or codify
13 present law as to the priority of claims under section 507
14 or 726 of this title, except that the claim of a foreign cred-
15 itor under those sections shall not be given a lower priority
16 than that of general unsecured claims without priority
17 solely because the holder of such claim is a foreign credi-
18 tor.

19 “(2)(A) Subsection (a) and paragraph (1) do not
20 change or codify present law as to the allowability of for-
21 eign revenue claims or other foreign public law claims in
22 a proceeding under this title.

23 “(B) Allowance and priority as to a foreign tax claim
24 or other foreign public law claim shall be governed by any
25 applicable tax treaty of the United States, under the con-
26 ditions and circumstances specified therein.

1 **“§ 1514. Notification to foreign creditors concerning a**
2 **case under this title**

3 “(a) Whenever in a case under this title notice is to
4 be given to creditors generally or to any class or category
5 of creditors, such notice shall also be given to the known
6 creditors generally, or to creditors in the notified class or
7 category, that do not have addresses in the United States.
8 The court may order that appropriate steps be taken with
9 a view to notifying any creditor whose address is not yet
10 known.

11 “(b) Such notification to creditors with foreign ad-
12 dresses described in subsection (a) shall be given individ-
13 ually, unless the court considers that, under the cir-
14 cumstances, some other form of notification would be
15 more appropriate. No letters rogatory or other similar for-
16 mality is required.

17 “(c) When a notification of commencement of a case
18 is to be given to foreign creditors, the notification shall—

19 “(1) indicate the time period for filing proofs of
20 claim and specify the place for their filing;

21 “(2) indicate whether secured creditors need to
22 file their proofs of claim; and

23 “(3) contain any other information required to
24 be included in such a notification to creditors under
25 this title and the orders of the court.

1 “(d) Any rule of procedure or order of the court as
2 to notice or the filing of a claim shall provide such addi-
3 tional time to creditors with foreign addresses as is rea-
4 sonable under the circumstances.

5 “SUBCHAPTER III—RECOGNITION OF A
6 FOREIGN PROCEEDING AND RELIEF

7 **“§ 1515. Application for recognition of a foreign pro-**
8 **ceeding**

9 “(a) A foreign representative applies to the court for
10 recognition of the foreign proceeding in which the foreign
11 representative has been appointed by filing a petition for
12 recognition.

13 “(b) A petition for recognition shall be accompanied
14 by—

15 “(1) a certified copy of the decision commenc-
16 ing the foreign proceeding and appointing the for-
17 eign representative;

18 “(2) a certificate from the foreign court affirm-
19 ing the existence of the foreign proceeding and of
20 the appointment of the foreign representative; or

21 “(3) in the absence of evidence referred to in
22 paragraphs (1) and (2), any other evidence accept-
23 able to the court of the existence of the foreign pro-
24 ceeding and of the appointment of the foreign rep-
25 resentative.

1 “(c) A petition for recognition shall also be accom-
2 panied by a statement identifying all foreign proceedings
3 with respect to the debtor that are known to the foreign
4 representative.

5 “(d) The documents referred to in paragraphs (1)
6 and (2) of subsection (b) must be translated into English.
7 The court may require a translation into English of addi-
8 tional documents.

9 **“§ 1516. Presumptions concerning recognition**

10 “(a) If the decision or certificate referred to in section
11 1515(b) indicates that the foreign proceeding is a foreign
12 proceeding as defined in section 101 and that the person
13 or body is a foreign representative as defined in section
14 101, the court is entitled to so presume.

15 “(b) The court is entitled to presume that documents
16 submitted in support of the petition for recognition are
17 authentic, whether or not they have been legalized.

18 “(c) In the absence of evidence to the contrary, the
19 debtor’s registered office, or habitual residence in the case
20 of an individual, is presumed to be the center of the debt-
21 or’s main interests.

22 **“§ 1517. Order recognizing a foreign proceeding**

23 “(a) Subject to section 1506, after notice and a hear-
24 ing an order recognizing a foreign proceeding shall be en-
25 tered if—

1 “(1) the foreign proceeding is a foreign main
2 proceeding or foreign nonmain proceeding within the
3 meaning of section 1502;

4 “(2) the foreign representative applying for rec-
5 ognition is a person or body as defined in section
6 101; and

7 “(3) the petition meets the requirements of sec-
8 tion 1515.

9 “(b) The foreign proceeding shall be recognized—

10 “(1) as a foreign main proceeding if it is taking
11 place in the country where the debtor has the center
12 of its main interests; or

13 “(2) as a foreign nonmain proceeding if the
14 debtor has an establishment within the meaning of
15 section 1502 in the foreign country where the pro-
16 ceeding is pending.

17 “(c) A petition for recognition of a foreign proceeding
18 shall be decided upon at the earliest possible time. Entry
19 of an order recognizing a foreign proceeding constitutes
20 recognition under this chapter.

21 “(d) The provisions of this subchapter do not prevent
22 modification or termination of recognition if it is shown
23 that the grounds for granting it were fully or partially
24 lacking or have ceased to exist, but in considering such
25 action the court shall give due weight to possible prejudice

1 to parties that have relied upon the granting of recogni-
2 tion. The case under this chapter may be closed in the
3 manner prescribed under section 350.

4 **“§ 1518. Subsequent information**

5 “From the time of filing the petition for recognition
6 of the foreign proceeding, the foreign representative shall
7 file with the court promptly a notice of change of status
8 concerning—

9 “(1) any substantial change in the status of the
10 foreign proceeding or the status of the foreign rep-
11 resentative’s appointment; and

12 “(2) any other foreign proceeding regarding the
13 debtor that becomes known to the foreign represent-
14 ative.

15 **“§ 1519. Relief that may be granted upon petition for**
16 **recognition of a foreign proceeding**

17 “(a) From the time of filing a petition for recognition
18 until the court rules on the petition, the court may, at
19 the request of the foreign representative, where relief is
20 urgently needed to protect the assets of the debtor or the
21 interests of the creditors, grant relief of a provisional na-
22 ture, including—

23 “(1) staying execution against the debtor’s as-
24 sets;

1 “(2) entrusting the administration or realiza-
2 tion of all or part of the debtor’s assets located in
3 the United States to the foreign representative or
4 another person authorized by the court, including an
5 examiner, in order to protect and preserve the value
6 of assets that, by their nature or because of other
7 circumstances, are perishable, susceptible to devalu-
8 ation or otherwise in jeopardy; and

9 “(3) any relief referred to in paragraph (3),
10 (4), or (7) of section 1521(a).

11 “(b) Unless extended under section 1521(a)(6), the
12 relief granted under this section terminates when the peti-
13 tion for recognition is decided upon.

14 “(c) It is a ground for denial of relief under this sec-
15 tion that such relief would interfere with the administra-
16 tion of a foreign main proceeding.

17 “(d) The court may not enjoin a police or regulatory
18 act of a governmental unit, including a criminal action or
19 proceeding, under this section.

20 “(e) The standards, procedures, and limitations ap-
21 plicable to an injunction shall apply to relief under this
22 section.

1 **“§ 1520. Effects of recognition of a foreign main pro-**
2 **ceeding**

3 “(a) Upon recognition of a foreign proceeding that
4 is a foreign main proceeding—

5 “(1) sections 361 and 362 with respect to the
6 debtor and that property of the debtor that is within
7 the territorial jurisdiction of the United States;

8 “(2) sections 363, 549, and 552 of this title
9 apply to a transfer of an interest of the debtor in
10 property that is within the territorial jurisdiction of
11 the United States to the same extent that the sec-
12 tions would apply to property of an estate;

13 “(3) unless the court orders otherwise, the for-
14 eign representative may operate the debtor’s busi-
15 ness and may exercise the rights and powers of a
16 trustee under and to the extent provided by sections
17 363 and 552; and

18 “(4) section 552 applies to property of the debt-
19 or that is within the territorial jurisdiction of the
20 United States.”.

21 “(b) Subsection (a) does not affect the right to com-
22 mence an individual action or proceeding in a foreign
23 country to the extent necessary to preserve a claim against
24 the debtor.

25 “(c) Subsection (a) does not affect the right of a for-
26 eign representative or an entity to file a petition commenc-

1 ing a case under this title or the right of any party to
2 file claims or take other proper actions in such a case.

3 **“§ 1521. Relief that may be granted upon recognition**
4 **of a foreign proceeding**

5 “(a) Upon recognition of a foreign proceeding, wheth-
6 er main or nonmain, where necessary to effectuate the
7 purpose of this chapter and to protect the assets of the
8 debtor or the interests of the creditors, the court may, at
9 the request of the foreign representative, grant any appro-
10 priate relief, including—

11 “(1) staying the commencement or continuation
12 of an individual action or proceeding concerning the
13 debtor’s assets, rights, obligations or liabilities to the
14 extent they have not been stayed under section
15 1520(a);

16 “(2) staying execution against the debtor’s as-
17 sets to the extent it has not been stayed under sec-
18 tion 1520(a);

19 “(3) suspending the right to transfer, encumber
20 or otherwise dispose of any assets of the debtor to
21 the extent this right has not been suspended under
22 section 1520(a);

23 “(4) providing for the examination of witnesses,
24 the taking of evidence or the delivery of information

1 concerning the debtor's assets, affairs, rights, obliga-
2 tions or liabilities;

3 “(5) entrusting the administration or realiza-
4 tion of all or part of the debtor's assets within the
5 territorial jurisdiction of the United States to the
6 foreign representative or another person, including
7 an examiner, authorized by the court;

8 “(6) extending relief granted under section
9 1519(a); and

10 “(7) granting any additional relief that may be
11 available to a trustee, except for relief available
12 under sections 522, 544, 545, 547, 548, 550, and
13 724(a).

14 “(b) Upon recognition of a foreign proceeding, wheth-
15 er main or nonmain, the court may, at the request of the
16 foreign representative, entrust the distribution of all or
17 part of the debtor's assets located in the United States
18 to the foreign representative or another person, including
19 an examiner, authorized by the court, provided that the
20 court is satisfied that the interests of creditors in the
21 United States are sufficiently protected.

22 “(c) In granting relief under this section to a rep-
23 resentative of a foreign nonmain proceeding, the court
24 must be satisfied that the relief relates to assets that,
25 under the law of the United States, should be adminis-

1 tered in the foreign nonmain proceeding or concerns infor-
2 mation required in that proceeding.

3 “(d) The court may not enjoin a police or regulatory
4 act of a governmental unit, including a criminal action or
5 proceeding, under this section.

6 “(e) The standards, procedures, and limitations ap-
7 plicable to an injunction shall apply to relief under para-
8 graphs (1), (2), (3), and (6) of subsection (a).

9 **“§ 1522. Protection of creditors and other interested**
10 **persons**

11 “(a) The court may grant relief under section 1519
12 or 1521, or may modify or terminate relief under sub-
13 section (c), only if the interests of the creditors and other
14 interested entities, including the debtor, are sufficiently
15 protected.

16 “(b) The court may subject relief granted under sec-
17 tion 1519 or 1521, or the operation of the debtor’s busi-
18 ness under section 1520(a)(3) of this title, to conditions
19 it considers appropriate, including the giving of security
20 or the filing of a bond.

21 “(c) The court may, at the request of the foreign rep-
22 resentative or an entity affected by relief granted under
23 section 1519 or 1521, or at its own motion, modify or
24 terminate such relief.

1 “(d) Section 1104(d) shall apply to the appointment
2 of an examiner under this chapter. Any examiner shall
3 comply with the qualification requirements imposed on a
4 trustee by section 322.

5 **“§ 1523. Actions to avoid acts detrimental to creditors**

6 “(a) Upon recognition of a foreign proceeding, the
7 foreign representative has standing in a case concerning
8 the debtor pending under another chapter of this title to
9 initiate actions under sections 522, 544, 545, 547, 548,
10 550, and 724(a).

11 “(b) When the foreign proceeding is a foreign
12 nonmain proceeding, the court must be satisfied that an
13 action under subsection (a) relates to assets that, under
14 United States law, should be administered in the foreign
15 nonmain proceeding.

16 **“§ 1524. Intervention by a foreign representative**

17 “Upon recognition of a foreign proceeding, the for-
18 eign representative may intervene in any proceedings in
19 a State or Federal court in the United States in which
20 the debtor is a party.

1 “SUBCHAPTER IV—COOPERATION WITH FOR-
2 EIGN COURTS AND FOREIGN REPRESENTA-
3 TIVES

4 **“§ 1525. Cooperation and direct communication be-
5 tween the court and foreign courts or for-
6 eign representatives**

7 “(a) Consistent with section 1501, the court shall co-
8 operate to the maximum extent possible with foreign
9 courts or foreign representatives, either directly or
10 through the trustee.

11 “(b) The court is entitled to communicate directly
12 with, or to request information or assistance directly from,
13 foreign courts or foreign representatives, subject to the
14 rights of parties in interest to notice and participation.

15 **“§ 1526. Cooperation and direct communication be-
16 tween the trustee and foreign courts or
17 foreign representatives**

18 “(a) Consistent with section 1501, the trustee or
19 other person, including an examiner, authorized by the
20 court, shall, subject to the supervision of the court, cooper-
21 ate to the maximum extent possible with foreign courts
22 or foreign representatives.

23 “(b) The trustee or other person, including an exam-
24 iner, authorized by the court is entitled, subject to the su-

1 pervision of the court, to communicate directly with for-
2 eign courts or foreign representatives.

3 **“§ 1527. Forms of cooperation**

4 “Cooperation referred to in sections 1525 and 1526
5 may be implemented by any appropriate means,
6 including—

7 “(1) appointment of a person or body, including
8 an examiner, to act at the direction of the court;

9 “(2) communication of information by any
10 means considered appropriate by the court;

11 “(3) coordination of the administration and su-
12 pervision of the debtor’s assets and affairs;

13 “(4) approval or implementation of agreements
14 concerning the coordination of proceedings; and

15 “(5) coordination of concurrent proceedings re-
16 garding the same debtor.

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 1528. Commencement of a case under this title**
19 **after recognition of a foreign main pro-**
20 **ceeding**

21 “After recognition of a foreign main proceeding, a
22 case under another chapter of this title may be commenced
23 only if the debtor has assets in the United States. The
24 effects of such case shall be restricted to the assets of the
25 debtor that are within the territorial jurisdiction of the

1 United States and, to the extent necessary to implement
2 cooperation and coordination under sections 1525, 1526,
3 and 1527, to other assets of the debtor that are within
4 the jurisdiction of the court under sections 541(a) of this
5 title, and 1334(e) of title 28, to the extent that such other
6 assets are not subject to the jurisdiction and control of
7 a foreign proceeding that has been recognized under this
8 chapter.

9 **“§ 1529. Coordination of a case under this title and a**
10 **foreign proceeding**

11 “Where a foreign proceeding and a case under an-
12 other chapter of this title are taking place concurrently
13 regarding the same debtor, the court shall seek coopera-
14 tion and coordination under sections 1525, 1526, and
15 1527, and the following shall apply:

16 “(1) When the case in the United States is tak-
17 ing place at the time the petition for recognition of
18 the foreign proceeding is filed—

19 “(A) any relief granted under sections
20 1519 or 1521 must be consistent with the relief
21 granted in the case in the United States; and

22 “(B) even if the foreign proceeding is rec-
23 ognized as a foreign main proceeding, section
24 1520 does not apply.

1 “(2) When a case in the United States under
2 this title commences after recognition, or after the
3 filing of the petition for recognition, of the foreign
4 proceeding—

5 “(A) any relief in effect under sections
6 1519 or 1521 shall be reviewed by the court
7 and shall be modified or terminated if inconsis-
8 tent with the case in the United States; and

9 “(B) if the foreign proceeding is a foreign
10 main proceeding, the stay and suspension re-
11 ferred to in section 1520(a) shall be modified or
12 terminated if inconsistent with the relief grant-
13 ed in the case in the United States.

14 “(3) In granting, extending, or modifying relief
15 granted to a representative of a foreign nonmain
16 proceeding, the court must be satisfied that the re-
17 lief relates to assets that, under the law of the
18 United States, should be administered in the foreign
19 nonmain proceeding or concerns information re-
20 quired in that proceeding.

21 “(4) In achieving cooperation and coordination
22 under sections 1528 and 1529, the court may grant
23 any of the relief authorized under section 305.

1 **“§ 1530. Coordination of more than 1 foreign proceed-**
2 **ing**

3 “In matters referred to in section 1501, with respect
4 to more than 1 foreign proceeding regarding the debtor,
5 the court shall seek cooperation and coordination under
6 sections 1525, 1526, and 1527, and the following shall
7 apply:

8 “(1) Any relief granted under section 1519 or
9 1521 to a representative of a foreign nonmain pro-
10 ceeding after recognition of a foreign main proceed-
11 ing must be consistent with the foreign main pro-
12 ceeding.

13 “(2) If a foreign main proceeding is recognized
14 after recognition, or after the filing of a petition for
15 recognition, of a foreign nonmain proceeding, any
16 relief in effect under section 1519 or 1521 shall be
17 reviewed by the court and shall be modified or termi-
18 nated if inconsistent with the foreign main proceed-
19 ing.

20 “(3) If, after recognition of a foreign nonmain
21 proceeding, another foreign nonmain proceeding is
22 recognized, the court shall grant, modify, or termi-
23 nate relief for the purpose of facilitating coordina-
24 tion of the proceedings.

1 **“§ 1531. Presumption of insolvency based on recogni-**
2 **tion of a foreign main proceeding**

3 “In the absence of evidence to the contrary, recogni-
4 tion of a foreign main proceeding is for the purpose of
5 commencing a proceeding under section 303, proof that
6 the debtor is generally not paying its debts as such debts
7 become due.

8 **“§ 1532. Rule of payment in concurrent proceedings**

9 “Without prejudice to secured claims or rights in
10 rem, a creditor who has received payment with respect to
11 its claim in a foreign proceeding pursuant to a law relating
12 to insolvency may not receive a payment for the same
13 claim in a case under any other chapter of this title re-
14 garding the debtor, so long as the payment to other credi-
15 tors of the same class is proportionately less than the pay-
16 ment the creditor has already received.”.

17 (b) CLERICAL AMENDMENT.—The table of chapters
18 for title 11, United States Code, is amended by inserting
19 after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases 1501”.

20 **SEC. 902. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**
21 **UNITED STATES CODE.**

22 (a) APPLICABILITY OF CHAPTERS.—Section 103 of
23 title 11, United States Code, is amended—

24 (1) in subsection (a), by inserting before the pe-
25 riod the following: “, and this chapter, sections 307,

1 304, 555 through 557, 559, and 560 apply in a case
2 under chapter 15”; and

3 (2) by adding at the end the following:

4 “(j) Chapter 15 applies only in a case under such
5 chapter, except that—

6 “(1) sections 1505, 1513, and 1514 apply in all
7 cases under this title; and

8 “(2) section 1509 applies whether or not a case
9 under this title is pending.”.

10 (b) DEFINITIONS.—Paragraphs (23) and (24) of title
11 11, United States Code, are amended to read as follows:

12 “(23) ‘foreign proceeding’ means a collective ju-
13 dicial or administrative proceeding in a foreign coun-
14 try, including an interim proceeding, under a law re-
15 lating to insolvency or adjustment of debt in which
16 proceeding the assets and affairs of the debtor are
17 subject to control or supervision by a foreign court,
18 for the purpose of reorganization or liquidation;

19 “(24) ‘foreign representative’ means a person
20 or body, including a person or body appointed on an
21 interim basis, authorized in a foreign proceeding to
22 administer the reorganization or the liquidation of
23 the debtor’s assets or affairs or to act as a rep-
24 resentative of the foreign proceeding;”.

1 (c) AMENDMENTS TO TITLE 28, UNITED STATES
2 CODE.—

3 (1) PROCEDURES.—Section 157(b)(2) of title
4 28, United States Code, is amended—

5 (A) in subparagraph (N), by striking
6 “and” at the end;

7 (B) in subparagraph (O), by striking the
8 period at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(P) recognition of foreign proceedings and
11 other matters under chapter 15 of title 11.”.

12 (2) BANKRUPTCY CASES AND PROCEEDINGS.—
13 Section 1334(c) of title 28, United States Code, is
14 amended by striking “Nothing in” and inserting
15 “Except with respect to a case under chapter 15 of
16 title 11, nothing in”.

17 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)
18 of title 28, United States Code, is amended by strik-
19 ing “or 13” and inserting “13, or 15,” after “chap-
20 ter”.

21 (4) Section 305(a)(2) of title 11, United States
22 Code, is amended to read:

23 “(2)(A) a petition under section 1515 of this
24 title for recognition of a foreign proceeding has been
25 granted; and

1 certificate of deposit, a mortgage loan,
2 or any interest in a mortgage loan, a
3 group or index of securities, certifi-
4 cates of deposit, or mortgage loans or
5 interests therein (including any inter-
6 est therein or based on the value
7 thereof) or any option on any of the
8 foregoing, including any option to
9 purchase or sell any such security,
10 certificate of deposit, loan, interest,
11 group or index, or option;

12 “(II) does not include any pur-
13 chase, sale, or repurchase obligation
14 under a participation in a commercial
15 mortgage loan unless the Corporation
16 determines by regulation, resolution,
17 or order to include any such agree-
18 ment within the meaning of such
19 term;

20 “(III) means any option entered
21 into on a national securities exchange
22 relating to foreign currencies;

23 “(IV) means the guarantee by or
24 to any securities clearing agency of
25 any settlement of cash, securities, cer-

1 tificates of deposit, mortgage loans or
2 interests therein, group or index of se-
3 curities, certificates of deposit, or
4 mortgage loans or interests therein
5 (including any interest therein or
6 based on the value thereof) or option
7 on any of the foregoing, including any
8 option to purchase or sell any such se-
9 curity, certificate of deposit, loan, in-
10 terest, group or index or option;

11 “(V) means any margin loan;

12 “(VI) means any other agree-
13 ment or transaction that is similar to
14 any agreement or transaction referred
15 to in this clause;

16 “(VII) means any combination of
17 the agreements or transactions re-
18 ferred to in this clause;

19 “(VIII) means any option to
20 enter into any agreement or trans-
21 action referred to in this clause;

22 “(IX) means a master agreement
23 that provides for an agreement or
24 transaction referred to in subclause
25 (I), (III), (IV), (V), (VI), (VII), or

1 (VIII), together with all supplements
2 to any such master agreement, with-
3 out regard to whether the master
4 agreement provides for an agreement
5 or transaction that is not a securities
6 contract under this clause, except that
7 the master agreement shall be consid-
8 ered to be a securities contract under
9 this clause only with respect to each
10 agreement or transaction under the
11 master agreement that is referred to
12 in subclause (I), (III), (IV), (V), (VI),
13 (VII), or (VIII); and

14 “(X) means any security agree-
15 ment or arrangement or other credit
16 enhancement related to any agree-
17 ment or transaction referred to in this
18 clause.”.

19 (c) DEFINITION OF COMMODITY CONTRACT.—Sec-
20 tion 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act
21 (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as fol-
22 lows:

23 “(iii) COMMODITY CONTRACT.—The
24 term ‘commodity contract’ means—

1 “(I) with respect to a futures
2 commission merchant, a contract for
3 the purchase or sale of a commodity
4 for future delivery on, or subject to
5 the rules of, a contract market or
6 board of trade;

7 “(II) with respect to a foreign fu-
8 tures commission merchant, a foreign
9 future;

10 “(III) with respect to a leverage
11 transaction merchant, a leverage
12 transaction;

13 “(IV) with respect to a clearing
14 organization, a contract for the pur-
15 chase or sale of a commodity for fu-
16 ture delivery on, or subject to the
17 rules of, a contract market or board
18 of trade that is cleared by such clear-
19 ing organization, or commodity option
20 traded on, or subject to the rules of,
21 a contract market or board of trade
22 that is cleared by such clearing orga-
23 nization;

24 “(V) with respect to a commodity
25 options dealer, a commodity option;

1 “(VI) any other agreement or
2 transaction that is similar to any
3 agreement or transaction referred to
4 in this clause;

5 “(VII) any combination of the
6 agreements or transactions referred to
7 in this clause;

8 “(VIII) any option to enter into
9 any agreement or transaction referred
10 to in this clause;

11 “(IX) a master agreement that
12 provides for an agreement or trans-
13 action referred to in subclause (I),
14 (II), (III), (IV), (V), (VI), (VII), or
15 (VIII), together with all supplements
16 to any such master agreement, with-
17 out regard to whether the master
18 agreement provides for an agreement
19 or transaction that is not a commod-
20 ity contract under this clause, except
21 that the master agreement shall be
22 considered to be a commodity contract
23 under this clause only with respect to
24 each agreement or transaction under
25 the master agreement that is referred

1 to in subclause (I), (II), (III), (IV),
2 (V), (VI), (VII), or (VIII); or

3 “(X) a security agreement or ar-
4 rangement or other credit enhance-
5 ment related to any agreement or
6 transaction referred to in this
7 clause.”.

8 (d) DEFINITION OF FORWARD CONTRACT.—Section
9 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
10 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

11 “(iv) FORWARD CONTRACT.—The
12 term ‘forward contract’ means—

13 “(I) a contract (other than a
14 commodity contract) for the purchase,
15 sale, or transfer of a commodity or
16 any similar good, article, service,
17 right, or interest which is presently or
18 in the future becomes the subject of
19 dealing in the forward contract trade,
20 or product or byproduct thereof, with
21 a maturity date more than 2 days
22 after the date the contract is entered
23 into, including, but not limited to, a
24 repurchase agreement, reverse repur-
25 chase agreement, consignment, lease,

1 swap, hedge transaction, deposit, loan,
2 option, allocated transaction,
3 unallocated transaction, or any other
4 similar agreement;

5 “(II) any combination of agree-
6 ments or transactions referred to in
7 subclauses (I) and (III);

8 “(III) any option to enter into
9 any agreement or transaction referred
10 to in subclause (I) or (II);

11 “(IV) a master agreement that
12 provides for an agreement or trans-
13 action referred to in subclauses (I),
14 (II), or (III), together with all supple-
15 ments to any such master agreement,
16 without regard to whether the master
17 agreement provides for an agreement
18 or transaction that is not a forward
19 contract under this clause, except that
20 the master agreement shall be consid-
21 ered to be a forward contract under
22 this clause only with respect to each
23 agreement or transaction under the
24 master agreement that is referred to
25 in subclause (I), (II), or (III); or

1 “(V) a security agreement or ar-
2 rangement or other credit enhance-
3 ment related to any agreement or
4 transaction referred to in subclause
5 (I), (II), (III), or (IV).”.

6 (e) DEFINITION OF REPURCHASE AGREEMENT.—
7 Section 11(e)(8)(D)(v) of the Federal Deposit Insurance
8 Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as
9 follows:

10 “(v) REPURCHASE AGREEMENT.—The
11 term ‘repurchase agreement’ (which defini-
12 tion also applies to a reverse repurchase
13 agreement)—

14 “(I) mean an agreement, includ-
15 ing related terms, which provides for
16 the transfer of 1 or more certificates
17 of deposit, mortgage-related securities
18 (as such term is defined in the Securi-
19 ties Exchange Act of 1934), mortgage
20 loans, interests in mortgage-related
21 securities or mortgage loans, eligible
22 bankers’ acceptances, qualified foreign
23 government securities or securities
24 that are direct obligations of, or that
25 are fully guaranteed by, the United

1 States or any agency of the United
2 States against the transfer of funds
3 by the transferee of such certificates
4 of deposit, eligible bankers' accept-
5 ances, securities, loans, or interests
6 with a simultaneous agreement by
7 such transferee to transfer to the
8 transferor thereof certificates of de-
9 posit, eligible bankers' acceptances,
10 securities, loans, or interests as de-
11 scribed above, at a date certain not
12 later than 1 year after such transfers
13 or on demand, against the transfer of
14 funds, or any other similar agreement;

15 “(II) does not include any repur-
16 chase obligation under a participation
17 in a commercial mortgage loan unless
18 the Corporation determines by regula-
19 tion, resolution, or order to include
20 any such participation within the
21 meaning of such term;

22 “(III) means any combination of
23 agreements or transactions referred to
24 in subclauses (I) and (IV);

1 “(IV) means any option to enter
2 into any agreement or transaction re-
3 ferred to in subclause (I) or (III);

4 “(V) means a master agreement
5 that provides for an agreement or
6 transaction referred to in subclause
7 (I), (III), or (IV), together with all
8 supplements to any such master
9 agreement, without regard to whether
10 the master agreement provides for an
11 agreement or transaction that is not a
12 repurchase agreement under this
13 clause, except that the master agree-
14 ment shall be considered to be a re-
15 purchase agreement under this sub-
16 clause only with respect to each agree-
17 ment or transaction under the master
18 agreement that is referred to in sub-
19 clause (I), (III), or (IV); and

20 “(VI) means a security agree-
21 ment or arrangement or other credit
22 enhancement related to any agree-
23 ment or transaction referred to in
24 subclause (I), (III), (IV), or (V).

1 For purposes of this clause, the term
2 ‘qualified foreign government security’
3 means a security that is a direct obligation
4 of, or that is fully guaranteed by, the cen-
5 tral government of a member of the Orga-
6 nization for Economic Cooperation and
7 Development (as determined by regulation
8 or order adopted by the appropriate Fed-
9 eral banking authority).”.

10 (f) DEFINITION OF SWAP AGREEMENT.—Section
11 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

13 “(vi) SWAP AGREEMENT.—The term
14 ‘swap agreement’ means—

15 “(I) any agreement, including the
16 terms and conditions incorporated by
17 reference in any such agreement,
18 which is an interest rate swap, option,
19 future, or forward agreement, includ-
20 ing a rate floor, rate cap, rate collar,
21 cross-currency rate swap, and basis
22 swap; a spot, same day-tomorrow, to-
23 morrow-next, forward, or other for-
24 eign exchange or precious metals
25 agreement; a currency swap, option,

1 future, or forward agreement; an eq-
2 uity index or equity swap, option, fu-
3 ture, or forward agreement; a debt
4 index or debt swap, option, future, or
5 forward agreement; a credit spread or
6 credit swap, option, future, or forward
7 agreement; a commodity index or
8 commodity swap, option, future, or
9 forward agreement;

10 “(II) any agreement or trans-
11 action similar to any other agreement
12 or transaction referred to in this
13 clause that is presently, or in the fu-
14 ture becomes, regularly entered into
15 in the swap market (including terms
16 and conditions incorporated by ref-
17 erence in such agreement) and that is
18 a forward, swap, future, or option on
19 1 or more rates, currencies, commod-
20 ities, equity securities or other equity
21 instruments, debt securities or other
22 debt instruments, or economic indices
23 or measures of economic risk or value;

1 “(III) any combination of agree-
2 ments or transactions referred to in
3 this clause;

4 “(IV) any option to enter into
5 any agreement or transaction referred
6 to in this clause;

7 “(V) a master agreement that
8 provides for an agreement or trans-
9 action referred to in subclause (I),
10 (II), (III), or (IV), together with all
11 supplements to any such master
12 agreement, without regard to whether
13 the master agreement contains an
14 agreement or transaction that is not a
15 swap agreement under this clause, ex-
16 cept that the master agreement shall
17 be considered to be a swap agreement
18 under this clause only with respect to
19 each agreement or transaction under
20 the master agreement that is referred
21 to in subclause (I), (II), (III), or (IV);
22 and

23 “(VI) any security agreement or
24 arrangement or other credit enhance-
25 ment related to any agreements or

1 transactions referred to in subpara-
2 graph (I), (II), (III), or (IV).

3 Such term is applicable for purposes of
4 this title only and shall not be construed or
5 applied so as to challenge or affect the
6 characterization, definition, or treatment of
7 any swap agreement under any other stat-
8 ute, regulation, or rule, including the Secu-
9 rities Act of 1933, the Securities Exchange
10 Act of 1934, the Public Utility Holding
11 Company Act of 1935, the Trust Indenture
12 Act of 1939, the Investment Company Act
13 of 1940, the Investment Advisers Act of
14 1940, the Securities Investor Protection
15 Act of 1970, the Commodity Exchange
16 Act, and the regulations promulgated by
17 the Securities and Exchange Commission
18 or the Commodity Futures Trading Com-
19 mission.”.

20 (g) DEFINITION OF TRANSFER.—Section
21 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12
22 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

23 “(viii) TRANSFER.—The term ‘trans-
24 fer’ means every mode, direct or indirect,
25 absolute or conditional, voluntary or invol-

1 untary, of disposing of or parting with
2 property or with an interest in property,
3 including retention of title as a security in-
4 terest and foreclosure of the depository
5 institutions's equity of redemption.”.

6 (h) TREATMENT OF QUALIFIED FINANCIAL CON-
7 TRACTS.—Section 11(e)(8) of the Federal Deposit Insur-
8 ance Act (12 U.S.C. 1821(e)(8)) is amended—

9 (1) in subparagraph (A), by striking “para-
10 graph (10)” and inserting “paragraphs (9) and
11 (10)”;

12 (2) in subparagraph (A)(i), by striking “to
13 cause the termination or liquidation” and inserting
14 “such person has to cause the termination, liquida-
15 tion, or acceleration”;

16 (3) by amending subparagraph (A)(ii) to read
17 as follows:

18 “(ii) any right under any security
19 agreement or arrangement or other credit
20 enhancement related to 1 or more qualified
21 financial contracts described in clause
22 (i);” and

23 (4) by amending subparagraph (E)(ii) to read
24 as follows:

1 “(ii) any right under any security
2 agreement or arrangement or other credit
3 enhancement related to 1 or more qualified
4 financial contracts described in clause
5 (i);”.

6 (i) AVOIDANCE OF TRANSFERS.—Section
7 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12
8 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section
9 5242 of the Revised Statutes of the United States (12
10 U.S.C. 91) or any other Federal or State law relating to
11 the avoidance of preferential or fraudulent transfers,” be-
12 fore “the Corporation”.

13 **SEC. 1002. AUTHORITY OF THE CORPORATION WITH RE-**
14 **SPECT TO FAILED AND FAILING INSTITU-**
15 **TIONS.**

16 (a) IN GENERAL.—Section 11(e)(8) of the Federal
17 Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is
18 amended—

19 (1) in subparagraph (E), by striking “other
20 than paragraph (12) of this subsection, subsection
21 (d)(9)” and inserting “other than subsections (d)(9)
22 and (e)(10)”; and

23 (2) by adding at the end the following new sub-
24 paragraphs:

1 “(F) CLARIFICATION.—No provision of law
2 shall be construed as limiting the right or
3 power of the Corporation, or authorizing any
4 court or agency to limit or delay, in any man-
5 ner, the right or power of the Corporation to
6 transfer any qualified financial contract in ac-
7 cordance with paragraphs (9) and (10) of this
8 subsection or to disaffirm or repudiate any such
9 contract in accordance with subsection (e)(1) of
10 this section.

11 “(G) WALKAWAY CLAUSES NOT EFFEC-
12 TIVE.—

13 “(i) IN GENERAL.—Notwithstanding
14 the provisions of subparagraphs (A) and
15 (E), and sections 403 and 404 of the Fed-
16 eral Deposit Insurance Corporation Im-
17 provement Act of 1991, no walkaway
18 clause shall be enforceable in a qualified fi-
19 nancial contract of an insured depository
20 institution in default.

21 “(ii) WALKAWAY CLAUSE DEFINED.—
22 For purposes of this subparagraph, the
23 term ‘walkaway clause’ means a provision
24 in a qualified financial contract that, after
25 calculation of a value of a party’s position

1 or an amount due to or from 1 of the par-
2 ties in accordance with its terms upon ter-
3 mination, liquidation, or acceleration of the
4 qualified financial contract, either does not
5 create a payment obligation of a party or
6 extinguishes a payment obligation of a
7 party in whole or in part solely because of
8 such party's status as a nondefaulting
9 party.”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—
11 Section 11(e)(12)(A) of the Federal Deposit Insurance
12 Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting
13 “or the exercise of rights or powers” after “the appoint-
14 ment”.

15 **SEC. 1003. AMENDMENTS RELATING TO TRANSFERS OF**
16 **QUALIFIED FINANCIAL CONTRACTS.**

17 (a) TRANSFERS OF QUALIFIED FINANCIAL CON-
18 TRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9)
19 of the Federal Deposit Insurance Act (12 U.S.C.
20 1821(e)(9)) is amended to read as follows:

21 “(9) TRANSFER OF QUALIFIED FINANCIAL CON-
22 TRACTS.—

23 “(A) IN GENERAL.—In making any trans-
24 fer of assets or liabilities of a depository institu-
25 tion in default which includes any qualified fi-

1 nancial contract, the conservator or receiver for
2 such depository institution shall either—

3 “(i) transfer to 1 financial institution,
4 other than a financial institution for which
5 a conservator, receiver, trustee in bank-
6 ruptcy, or other legal custodian has been
7 appointed or which is otherwise the subject
8 of a bankruptcy or insolvency proceeding—

9 “(I) all qualified financial con-
10 tracts between any person or any af-
11 filiate of such person and the deposi-
12 tory institution in default;

13 “(II) all claims of such person or
14 any affiliate of such person against
15 such depository institution under any
16 such contract (other than any claim
17 which, under the terms of any such
18 contract, is subordinated to the claims
19 of general unsecured creditors of such
20 institution);

21 “(III) all claims of such deposi-
22 tory institution against such person or
23 any affiliate of such person under any
24 such contract; and

1 “(IV) all property securing or
2 any other credit enhancement for any
3 contract described in subclause (I) or
4 any claim described in subclause (II)
5 or (III) under any such contract; or

6 “(ii) transfer none of the qualified fi-
7 nancial contracts, claims, property or other
8 credit enhancement referred to in clause (i)
9 (with respect to such person and any affili-
10 ate of such person).

11 “(B) TRANSFER TO FOREIGN BANK, FOR-
12 EIGN FINANCIAL INSTITUTION, OR BRANCH OR
13 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-
14 STITUTION.—In transferring any qualified fi-
15 nancial contracts and related claims and prop-
16 erty pursuant to subparagraph (A)(i), the con-
17 servator or receiver for such depository institu-
18 tion shall not make such transfer to a foreign
19 bank, financial institution organized under the
20 laws of a foreign country, or a branch or agency
21 of a foreign bank or financial institution unless,
22 under the law applicable to such bank, financial
23 institution, branch or agency, to the qualified
24 financial contracts, and to any netting contract,
25 any security agreement or arrangement or other

1 credit enhancement related to 1 or more quali-
2 fied financial contracts, the contractual rights
3 of the parties to such qualified financial con-
4 tracts, netting contracts, security agreements or
5 arrangements, or other credit enhancements are
6 enforceable substantially to the same extent as
7 permitted under this section.

8 “(C) TRANSFER OF CONTRACTS SUBJECT
9 TO THE RULES OF A CLEARING ORGANIZA-
10 TION.—In the event that a conservator or re-
11 ceiver transfers any qualified financial contract
12 and related claims, property and credit en-
13 hancements pursuant to subparagraph (A)(i)
14 and such contract is subject to the rules of a
15 clearing organization, the clearing organization
16 shall not be required to accept the transferee as
17 a member by virtue of the transfer.

18 “(D) DEFINITION.—For purposes of this
19 section, the term ‘financial institution’ means a
20 broker or dealer, a depository institution, a fu-
21 tures commission merchant, or any other insti-
22 tution as determined by the Corporation by reg-
23 ulation to be a financial institution.”.

24 (b) NOTICE TO QUALIFIED FINANCIAL CONTRACT
25 COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal

1 Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is
2 amended by amending the flush material following clause
3 (ii) to read as follows: “the conservator or receiver shall
4 notify any person who is a party to any such contract of
5 such transfer by 5:00 p.m. (eastern time) on the business
6 day following the date of the appointment of the receiver,
7 in the case of a receivership, or the business day following
8 such transfer, in the case of a conservatorship.”.

9 (c) RIGHTS AGAINST RECEIVER AND TREATMENT OF
10 BRIDGE BANKS.—Section 11(e)(10) of the Federal De-
11 posit Insurance Act (12 U.S.C. 1821(e)(10)) is further
12 amended—

13 (1) by redesignating subparagraph (B) as sub-
14 paragraph (D); and

15 (2) by inserting after subparagraph (A) the fol-
16 lowing new subparagraphs:

17 “(B) CERTAIN RIGHTS NOT ENFORCE-
18 ABLE.—

19 “(i) RECEIVERSHIP.—A person who is
20 a party to a qualified financial contract
21 with an insured depository institution may
22 not exercise any right such person has to
23 terminate, liquidate, or net such contract
24 under paragraph (8)(A) or section 403 or
25 404 of the Federal Deposit Insurance Cor-

1 poration Improvement Act of 1991 solely
2 by reason of or incidental to the appoint-
3 ment of a receiver for the depository insti-
4 tution (or the insolvency or financial condi-
5 tion of the depository institution for which
6 the receiver has been appointed)—

7 “(I) until 5:00 p.m. (eastern
8 time) on the business day following
9 the date of the appointment of the re-
10 ceiver; or

11 “(II) after the person has re-
12 ceived notice that the contract has
13 been transferred pursuant to para-
14 graph (9)(A).

15 “(ii) CONSERVATORSHIP.—A person
16 who is a party to a qualified financial con-
17 tract with an insured depository institution
18 may not exercise any right such person has
19 to terminate, liquidate, or net such con-
20 tract under paragraph (8)(E) or sections
21 403 or 404 of the Federal Deposit Insur-
22 ance Corporation Improvement Act of
23 1991, solely by reason of or incidental to
24 the appointment of a conservator for the
25 depository institution (or the insolvency or

1 financial condition of the depository insti-
2 tution for which the conservator has been
3 appointed).

4 “(iii) NOTICE.—For purposes of this
5 subsection, the Corporation as receiver or
6 conservator of an insured depository insti-
7 tution shall be deemed to have notified a
8 person who is a party to a qualified finan-
9 cial contract with such depository institu-
10 tion if the Corporation has taken steps
11 reasonably calculated to provide notice to
12 such person by the time specified in sub-
13 paragraph (A) of this subsection.

14 “(C) TREATMENT OF BRIDGE BANKS.—
15 The following institutions shall not be consid-
16 ered a financial institution for which a con-
17 servator, receiver, trustee in bankruptcy, or
18 other legal custodian has been appointed or
19 which is otherwise the subject of a bankruptcy
20 or insolvency proceeding for purposes of sub-
21 section (e)(9)—

22 “(i) a bridge bank; or

23 “(ii) a depository institution organized
24 by the Corporation, for which a conserva-
25 tor is appointed either—

1 “(I) immediately upon the orga-
2 nization of the institution; or

3 “(II) at the time of a purchase
4 and assumption transaction between
5 such institution and the Corporation
6 as receiver for a depository institution
7 in default.”.

8 **SEC. 1004. AMENDMENTS RELATING TO DISAFFIRMANCE**
9 **OR REPUDIATION OF QUALIFIED FINANCIAL**
10 **CONTRACTS.**

11 Section 11(e) of the Federal Deposit Insurance Act
12 (12 U.S.C. 1821(e)) is further amended—

13 (1) by redesignating paragraphs (11) through
14 (15) as paragraphs (12) through (16), respectively;
15 and

16 (2) by inserting after paragraph (10) the fol-
17 lowing new paragraph:

18 “(11) DISAFFIRMANCE OR REPUDIATION OF
19 QUALIFIED FINANCIAL CONTRACTS.—In exercising
20 the rights of disaffirmance or repudiation of a con-
21 servator or receiver with respect to any qualified fi-
22 nancial contract to which an insured depository in-
23 stitution is a party, the conservator or receiver for
24 such institution shall either—

1 “(A) disaffirm or repudiate all qualified fi-
2 nancial contracts between—

3 “(i) any person or any affiliate of
4 such person; and

5 “(ii) the depository institution in de-
6 fault; or

7 “(B) disaffirm or repudiate none of the
8 qualified financial contracts referred to in sub-
9 paragraph (A) (with respect to such person or
10 any affiliate of such person).”.

11 **SEC. 1005. CLARIFYING AMENDMENT RELATING TO MAS-**
12 **TER AGREEMENTS.**

13 Section 11(e)(8)(D)(vii) of the Federal Deposit In-
14 surance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to
15 read as follows:

16 “(vii) TREATMENT OF MASTER
17 AGREEMENT AS 1 AGREEMENT.—Any mas-
18 ter agreement for any contract or agree-
19 ment described in any preceding clause of
20 this subparagraph (or any master agree-
21 ment for such master agreement or agree-
22 ments), together with all supplements to
23 such master agreement, shall be treated as
24 a single agreement and a single qualified
25 financial contract. If a master agreement

1 contains provisions relating to agreements
2 or transactions that are not themselves
3 qualified financial contracts, the master
4 agreement shall be deemed to be a quali-
5 fied financial contract only with respect to
6 those transactions that are themselves
7 qualified financial contracts.”.

8 **SEC. 1006. FEDERAL DEPOSIT INSURANCE CORPORATION**
9 **IMPROVEMENT ACT OF 1991.**

10 (a) DEFINITIONS.—Section 402 of the Federal De-
11 posit Insurance Corporation Improvement Act of 1991 (12
12 U.S.C. 4402) is amended—

13 (1) in paragraph (6)—

14 (A) by redesignating subparagraphs (B)
15 through (D) as subparagraphs (C) through (E),
16 respectively;

17 (B) by inserting after subparagraph (A)
18 the following new subparagraph:

19 “(B) an uninsured national bank or an un-
20 insured State bank that is a member of the
21 Federal Reserve System if the national bank or
22 State member bank is not eligible to make ap-
23 plication to become an insured bank under sec-
24 tion 5 of the Federal Deposit Insurance Act;”;
25 and

1 (C) by amending subparagraph (C) (as re-
2 designated) to read as follows:

3 “(C) a branch or agency of a foreign bank,
4 a foreign bank and any branch or agency of the
5 foreign bank, or the foreign bank that estab-
6 lished the branch or agency, as those terms are
7 defined in section 1(b) of the International
8 Banking Act of 1978;”;

9 (2) in paragraph (11), by adding before the pe-
10 riod “and any other clearing organization with which
11 such clearing organization has a netting contract”;

12 (3) by amending paragraph (14)(A)(i) to read
13 as follows:

14 “(i) means a contract or agreement
15 between 2 or more financial institutions,
16 clearing organizations, or members that
17 provides for netting present or future pay-
18 ment obligations or payment entitlements
19 (including liquidation or closeout values re-
20 lating to such obligations or entitlements)
21 among the parties to the agreement; and”;
22 and

23 (4) by adding at the end the following new
24 paragraph:

1 “(15) PAYMENT.—The term ‘payment’ means a
2 payment of United States dollars, another currency,
3 or a composite currency, and a noncash delivery, in-
4 cluding a payment or delivery to liquidate an
5 unmatured obligation.”.

6 (b) ENFORCEABILITY OF BILATERAL NETTING CON-
7 TRACTS.—Section 403 of the Federal Deposit Insurance
8 Corporation Improvement Act of 1991 (12 U.S.C. 4403)
9 is amended—

10 (1) by amending subsection (a) to read as fol-
11 lows:

12 “(a) GENERAL RULE.—Notwithstanding any other
13 provision of State or Federal law (other than paragraphs
14 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
15 Deposit Insurance Act or any order authorized under sec-
16 tion 5(b)(2) of the Securities Investor Protection Act of
17 1970, the covered contractual payment obligations and the
18 covered contractual payment entitlements between any 2
19 financial institutions shall be netted in accordance with,
20 and subject to the conditions of, the terms of any applica-
21 ble netting contract (except as provided in section
22 561(b)(2) of title 11).”; and

23 (2) by adding at the end the following new sub-
24 section:

1 “(f) ENFORCEABILITY OF SECURITY AGREE-
2 MENTS.—The provisions of any security agreement or ar-
3 rangement or other credit enhancement related to 1 or
4 more netting contracts between any 2 financial institu-
5 tions shall be enforceable in accordance with their terms
6 (except as provided in section 561(b)(2) of title 11) and
7 shall not be stayed, avoided, or otherwise limited by any
8 State or Federal law (other than paragraphs (8)(E),
9 (8)(F), and (10)(B) of section 11(e) of the Federal De-
10 posit Insurance Act and section 5(b)(2) of the Securities
11 Investor Protection Act of 1970).”.

12 (c) ENFORCEABILITY OF CLEARING ORGANIZATION
13 NETTING CONTRACTS.—Section 404 of the Federal De-
14 posit Insurance Corporation Improvement Act of 1991 (12
15 U.S.C. 4404) is amended—

16 (1) by amending subsection (a) to read as fol-
17 lows:

18 “(a) GENERAL RULE.—Notwithstanding any other
19 provision of State or Federal law (other than paragraphs
20 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
21 Deposit Insurance Act and any order authorized under
22 section 5(b)(2) of the Securities Investor Protection Act
23 of 1970, the covered contractual payment obligations and
24 the covered contractual payment entitlements of a member
25 of a clearing organization to and from all other members

1 of a clearing organization shall be netted in accordance
2 with and subject to the conditions of any applicable net-
3 ting contract (except as provided in section 561(b)(2) of
4 title 11, United States Code).”; and

5 (2) by adding at the end the following new sub-
6 section:

7 “(h) ENFORCEABILITY OF SECURITY AGREE-
8 MENTS.—The provisions of any security agreement or ar-
9 rangement or other credit enhancement related to 1 or
10 more netting contracts between any 2 members of a clear-
11 ing organization shall be enforceable in accordance with
12 their terms (except as provided in section 561(b)(2) of
13 title 11, United States Code) and shall not be stayed,
14 avoided, or otherwise limited by any State or Federal law
15 other than paragraphs (8)(E), (8)(F), and (10)(B) of sec-
16 tion 11(e) of the Federal Deposit Insurance Act and sec-
17 tion 5(b)(2) of the Securities Investor Protection Act of
18 1970.”.

19 (d) ENFORCEABILITY OF CONTRACTS WITH UNIN-
20 SURED NATIONAL BANKS AND UNINSURED FEDERAL
21 BRANCHES AND AGENCIES.—The Federal Deposit Insur-
22 ance Corporation Improvement Act of 1991 (12 U.S.C.
23 4401 et seq.) is amended—

24 (1) by redesignating section 407 as section 408;
25 and

1 (2) by adding after section 406 the following
2 new section:

3 **“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED**
4 **NATIONAL BANKS AND UNINSURED FEDERAL**
5 **BRANCHES AND AGENCIES.**

6 “(a) IN GENERAL.—Notwithstanding any other pro-
7 vision of law, paragraphs (8), (9), (10), and (11) of section
8 11(e) of the Federal Deposit Insurance Act shall apply
9 to an uninsured national bank or uninsured Federal
10 branch or Federal agency except—

11 “(1) any reference to the ‘Corporation as re-
12 ceiver’ or ‘the receiver or the Corporation’ shall refer
13 to the receiver of an uninsured national bank or un-
14 insured Federal branch or Federal agency appointed
15 by the Comptroller of the Currency;

16 “(2) any reference to the ‘Corporation’ (other
17 than in section 11(e)(8)(D) of such Act), the ‘Cor-
18 poration, whether acting as such or as conservator
19 or receiver’, a ‘receiver’, or a ‘conservator’ shall refer
20 to the receiver or conservator of an uninsured na-
21 tional bank or uninsured Federal branch or Federal
22 agency appointed by the Comptroller of the Cur-
23 rency; and

24 “(3) any reference to an ‘insured depository in-
25 stitution’ or ‘depository institution’ shall refer to an

1 uninsured national bank or an uninsured Federal
2 branch or Federal agency.

3 “(b) LIABILITY.—The liability of a receiver or con-
4 servator of an uninsured national bank or uninsured Fed-
5 eral branch or agency shall be determined in the same
6 manner and subject to the same limitations that apply to
7 receivers and conservators of insured depository institu-
8 tions under section 11(e) of the Federal Deposit Insurance
9 Act.

10 “(c) REGULATORY AUTHORITY.—

11 “(1) IN GENERAL.—The Comptroller of the
12 Currency, in consultation with the Federal Deposit
13 Insurance Corporation, may promulgate regulations
14 to implement this section.

15 “(2) SPECIFIC REQUIREMENT.—In promulgat-
16 ing regulations to implement this section, the Comp-
17 troller of the Currency shall ensure that the regula-
18 tions generally are consistent with the regulations
19 and policies of the Federal Deposit Insurance Cor-
20 poration adopted pursuant to the Federal Deposit
21 Insurance Act.

22 “(d) DEFINITIONS.—For purposes of this section, the
23 terms ‘Federal branch’, ‘Federal agency’, and ‘foreign
24 bank’ have the same meaning as in section 1(b) of the
25 International Banking Act.”.

1 **SEC. 1007. BANKRUPTCY CODE AMENDMENTS.**

2 (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-
3 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,
4 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECU-
5 RITIES CONTRACT.—Title 11, United States Code, is
6 amended—

7 (1) in section 101—

8 (A) in paragraph (25)—

9 (i) by striking “means a contract”
10 and inserting “means—
11 “(A) a contract”;

12 (ii) by striking “, or any combination
13 thereof or option thereon;” and inserting
14 “, or any other similar agreement;”; and

15 (iii) by adding at the end the follow-
16 ing:

17 “(B) any combination of agreements or
18 transactions referred to in subparagraphs (A)
19 and (C);

20 “(C) any option to enter into an agreement
21 or transaction referred to in subparagraph (A)
22 or (B);

23 “(D) a master agreement that provides for
24 an agreement or transaction referred to in sub-
25 paragraph (A), (B), or (C), together with all
26 supplements to any such master agreement,

1 without regard to whether such master agree-
2 ment provides for an agreement or transaction
3 that is not a forward contract under this para-
4 graph, except that such master agreement shall
5 be considered to be a forward contract under
6 this paragraph only with respect to each agree-
7 ment or transaction under such master agree-
8 ment that is referred to in subparagraph (A),
9 (B) or (C); or

10 “(E) a security agreement or arrangement,
11 or other credit enhancement related to any
12 agreement or transaction referred to in sub-
13 paragraph (A), (B), (C), or (D), but not to ex-
14 ceed the actual value of such contract, option,
15 agreement, or transaction on the date of the fil-
16 ing of the petition;”;

17 (B) in paragraph (46), by striking “on any
18 day during the period beginning 90 days before
19 the date of” and replacing it with “at any time
20 before”;

21 (C) by amending paragraph (47) to read
22 as follows:

23 “(47) ‘repurchase agreement’ (which definition
24 also applies to a reverse repurchase agreement)
25 means—

1 “(i) an agreement, including related
2 terms, which provides for the transfer of 1
3 or more certificates of deposit, mortgage-
4 related securities (as defined in the Securi-
5 ties Exchange Act of 1934), mortgage
6 loans, interests in mortgage-related securi-
7 ties or mortgage loans, eligible bankers’ ac-
8 ceptances, qualified foreign government se-
9 curities; or securities that are direct obliga-
10 tions of, or that are fully guaranteed by,
11 the United States or any agency of the
12 United States against the transfer of funds
13 by the transferee of such certificates of de-
14 posit, eligible bankers’ acceptances, securi-
15 ties, loans, or interests; with a simulta-
16 neous agreement by such transferee to
17 transfer to the transferor thereof certifi-
18 cates of deposit, eligible bankers’ accept-
19 ance, securities, loans, or interests of the
20 kind described above, at a date certain not
21 later than 1 year after such transfer or on
22 demand, against the transfer of funds;

23 “(ii) any combination of agreements
24 or transactions referred to in clauses (i)
25 and (iii);

1 “(iii) an option to enter into an agree-
2 ment or transaction referred to in clause
3 (i) or (ii);

4 “(iv) a master agreement that pro-
5 vides for an agreement or transaction re-
6 ferred to in clause (i), (ii), or (iii), together
7 with all supplements to any such master
8 agreement, without regard to whether such
9 master agreement provides for an agree-
10 ment or transaction that is not a repur-
11 chase agreement under this paragraph, ex-
12 cept that such master agreement shall be
13 considered to be a repurchase agreement
14 under this paragraph only with respect to
15 each agreement or transaction under the
16 master agreement that is referred to in
17 clause (i), (ii), or (iii); or

18 “(v) a security agreement or arrange-
19 ment or other credit enhancement related
20 to any agreement or transaction referred
21 to in clause (i), (ii), (iii), or (iv), but not
22 to exceed the actual value of such contract
23 on the date of the filing of the petition;
24 and

1 “(B) does not include a repurchase obliga-
2 tion under a participation in a commercial
3 mortgage loan;

4 and, for purposes of this paragraph, the term ‘quali-
5 fied foreign government security’ means a security
6 that is a direct obligation of, or that is fully guaran-
7 teed by, the central government of a member of the
8 Organization for Economic Cooperation and Devel-
9 opment;”;

10 (D) in paragraph (48) by inserting “or ex-
11 empt from such registration under such section
12 pursuant to an order of the Securities and Ex-
13 change Commission” after “1934”; and

14 (E) by amending paragraph (53B) to read
15 as follows:

16 “(53B) ‘swap agreement’

17 “(A) means—

18 “(i) any agreement, including the
19 terms and conditions incorporated by ref-
20 erence in such agreement, which is an in-
21 terest rate swap, option, future, or forward
22 agreement, including a rate floor, rate cap,
23 rate collar, cross-currency rate swap, and
24 basis swap; a spot, same day-tomorrow, to-
25 morrow-next, forward, or other foreign ex-

1 change or precious metals agreement; a
2 currency swap, option, future, or forward
3 agreement; an equity index or an equity
4 swap, option, future, or forward agree-
5 ment; a debt index or a debt swap, option,
6 future, or forward agreement; a credit
7 spread or a credit swap, option, future, or
8 forward agreement; or a commodity index
9 or a commodity swap, option, future, or
10 forward agreement;

11 “(ii) any agreement or transaction
12 similar to any other agreement or trans-
13 action referred to in this paragraph that—

14 “(I) is presently, or in the future
15 becomes, regularly entered into in the
16 swap market (including terms and
17 conditions incorporated by reference
18 therein); and

19 “(II) is a forward, swap, future,
20 or option on 1 or more rates, cur-
21 rencies commodities, equity securities,
22 or other equity instruments, debt se-
23 curities or other debt instruments, or
24 on an economic index or measure of
25 economic risk or value;

1 “(iii) any combination of agreements
2 or transactions referred to in this para-
3 graph;

4 “(iv) any option to enter into an
5 agreement or transaction referred to in
6 this paragraph;

7 “(v) a master agreement that provides
8 for an agreement or transaction referred to
9 in clause (i), (ii), (iii), or (iv), together
10 with all supplements to any such master
11 agreement, and without regard to whether
12 the master agreement contains an agree-
13 ment or transaction that is not a swap
14 agreement under this paragraph, except
15 that the master agreement shall be consid-
16 ered to be a swap agreement under this
17 paragraph only with respect to each agree-
18 ment or transaction under the master
19 agreement that is referred to in clause (i),
20 (ii), (iii), or (iv); or

21 “(B) any security agreement or arrange-
22 ment or other credit enhancement related to
23 any agreements or transactions referred to in
24 subparagraph (A); and

1 “(C) is applicable for purposes of this title
2 only and shall not be construed or applied so as
3 to challenge or affect the characterization, defi-
4 nition, or treatment of any swap agreement
5 under any other statute, regulation, or rule, in-
6 cluding the Securities Act of 1933, the Securi-
7 ties Exchange Act of 1934, the Public Utility
8 Holding Company Act of 1935, the Trust In-
9 denture Act of 1939, the Investment Company
10 Act of 1940, the Investment Advisers Act of
11 1940, the Securities Investor Protection Act of
12 1970, the Commodity Exchange Act, and the
13 regulations prescribed by the Securities and Ex-
14 change Commission or the Commodity Futures
15 Trading Commission.”;

16 (2) by amending section 741(7) to read as fol-
17 lows:

18 “(7) ‘securities contract’—

19 “(A) means—

20 “(i) a contract for the purchase, sale,
21 or loan of a security, a certificate of de-
22 posit, a mortgage loan or any interest in a
23 mortgage loan, a group or index of securi-
24 ties, certificates of deposit or mortgage
25 loans or interests therein (including an in-

1 terest therein or based on the value there-
2 of), or option on any of the foregoing, in-
3 cluding an option to purchase or sell any
4 such security certificate of deposit, loan,
5 interest, group or index or option;

6 “(ii) any option entered into on a na-
7 tional securities exchange relating to for-
8 eign currencies;

9 “(iii) the guarantee by or to any secu-
10 rities clearing agency of a settlement of
11 cash, securities, certificates of deposit
12 mortgage loans or interests therein, group
13 or index of securities, or mortgage loans or
14 interests therein (including any interest
15 therein or based on the value thereof), or
16 option on any of the foregoing, including
17 an option to purchase or sell any such se-
18 curity certificate of deposit, loan, interest,
19 group or index or option;

20 “(iv) any margin loan;

21 “(v) any other agreement or trans-
22 action that is similar to an agreement or
23 transaction referred to in this paragraph;

1 “(vi) any combination of the agree-
2 ments or transactions referred to in this
3 paragraph;

4 “(vii) any option to enter into any
5 agreement or transaction referred to in
6 this paragraph;

7 “(viii) a master agreement that pro-
8 vides for an agreement or transaction re-
9 ferred to in clause (i), (ii), (iii), (iv), (v),
10 (vi), or (vii), together with all supplements
11 to any such master agreement, without re-
12 gard to whether the master agreement pro-
13 vides for an agreement or transaction that
14 is not a securities contract under this
15 paragraph, except that such master agree-
16 ment shall be considered to be a securities
17 contract under this paragraph only with
18 respect to each agreement or transaction
19 under such master agreement that is re-
20 ferred to in clause (i), (ii), (iii), (iv), (v),
21 (vi), or (vii); or

22 “(ix) any security agreement or ar-
23 rangement, or other credit enhancement,
24 related to any agreement or transaction re-
25 ferred to in this paragraph, but not to ex-

1 ceed the actual value of such contract on
2 the date of the filing of the petition; and
3 “(B) does not include any purchase, sale,
4 or repurchase obligation under a participation
5 in a commercial mortgage loan.”; and

6 (3) in section 761(4)—

7 (A) by striking “or” at the end of subpara-
8 graph (D); and

9 (B) by adding at the end the following:

10 “(F) any other agreement or transaction
11 that is similar to an agreement or transaction
12 referred to in this paragraph;

13 “(G) any combination of the agreements or
14 transactions referred to in this paragraph;

15 “(H) any option to enter into an agree-
16 ment or transaction referred to in this para-
17 graph;

18 “(I) a master agreement that provides for
19 an agreement or transaction referred to in sub-
20 paragraph (A), (B), (C), (D), (E), (F), (G), or
21 (H), together with all supplements to such mas-
22 ter netting agreement, without regard to wheth-
23 er the master netting agreement provides for an
24 agreement or transaction that is not a commod-
25 ity contract under this paragraph, except that

1 the master agreement shall be considered to be
2 a commodity contract under this paragraph
3 only with respect to each agreement or trans-
4 action under the master agreement that is re-
5 ferred to in subparagraph (A), (B), (C), (D),
6 (E), (F), (G), or (H); or

7 “(J) a security agreement or arrangement,
8 or other credit enhancement related to any
9 agreement or transaction referred to in this
10 paragraph, but not to exceed the actual value of
11 such contract on the date of the filing of the pe-
12 tition;”.

13 (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-
14 NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-
15 CHANT.—Section 101 of title 11, United States Code, is
16 amended—

17 (1) by amending paragraph (22) to read as fol-
18 lows:

19 “(22) ‘financial institution’ means—

20 “(A) a Federal reserve bank, or an entity
21 (domestic or foreign) that is a commercial or
22 savings bank, industrial savings bank, savings
23 and loan association, trust company, or receiver
24 or conservator for such entity and, when any
25 such Federal reserve bank, receiver, conservator

1 or entity is acting as agent or custodian for a
2 customer in connection with a securities con-
3 tract, as defined in section 741 of this title,
4 such customer; or

5 “(B) in connection with a securities con-
6 tract, as defined in section 741 of this title, an
7 investment company registered under the In-
8 vestment Company Act of 1940;”;

9 (2) by inserting after paragraph (22) the fol-
10 lowing:

11 “(22A) ‘financial participant’ means an entity
12 that, at the time it enters into a securities contract,
13 commodity contract or forward contract, or at the
14 time of the filing of the petition, has 1 or more
15 agreements or transactions that is described in sec-
16 tion 561(a)(2) with the debtor or any other entity
17 (other than an affiliate) of a total gross dollar value
18 of at least \$1,000,000,000 in notional or actual
19 principal amount outstanding on any day during the
20 previous 15-month period, or has gross mark-to-
21 market positions of at least \$100,000,000 (aggre-
22 gated across counterparties) in 1 or more such
23 agreement or transaction with the debtor or any
24 other entity (other than an affiliate) on any day dur-
25 ing the previous 15-month period;” and

1 (3) by amending paragraph (26) to read as fol-
2 lows:

3 “(26) ‘forward contract merchant’ means a
4 Federal reserve bank, or an entity whose business
5 consists in whole or in part of entering into forward
6 contracts as or with merchants or in a commodity,
7 as defined or in section 761 of this title, or any simi-
8 lar good, article, service, right, or interest which is
9 presently or in the future becomes the subject of
10 dealing or in the forward contract trade;”.

11 (c) DEFINITION OF MASTER NETTING AGREEMENT
12 AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-
13 tion 101 of title 11, United States Code, is amended by
14 inserting after paragraph (38) the following new para-
15 graphs:

16 “(38A) ‘master netting agreement’ means an
17 agreement providing for the exercise of rights, in-
18 cluding rights of netting, setoff, liquidation, termi-
19 nation, acceleration, or closeout, under or in connec-
20 tion with 1 or more contracts that are described in
21 any 1 or more of paragraphs (1) through (5) of sec-
22 tion 561(a), or any security agreement or arrange-
23 ment or other credit enhancement related to 1 or
24 more of the foregoing. If a master netting agreement
25 contains provisions relating to agreements or trans-

1 actions that are not contracts described in para-
2 graphs (1) through (5) of section 561(a), the master
3 netting agreement shall be deemed to be a master
4 netting agreement only with respect to those agree-
5 ments or transactions that are described in any 1 or
6 more of the paragraphs (1) through (5) of section
7 561(a);

8 “(38B) ‘master netting agreement participant’
9 means an entity that, at any time before the filing
10 of the petition, is a party to an outstanding master
11 netting agreement with the debtor;”.

12 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
13 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-
14 CHASE AGREEMENTS, AND MASTER NETTING AGREE-
15 MENTS UNDER THE AUTOMATIC-STAY.—

16 (1) IN GENERAL.—Section 362(b) of title 11,
17 United States Code, as amended by sections 118,
18 132, 136, 142, 203 and 818, is amended—

19 (A) in paragraph (6), by inserting “,
20 pledged to, and under the control of,” after
21 “held by”;

22 (B) in paragraph (7), by inserting “,
23 pledged to, and under the control of,” after
24 “held by”;

1 (C) by amending paragraph (17) to read
2 as follows:

3 “(17) under subsection (a), of the setoff by a
4 swap participant of a mutual debt and claim under
5 or in connection with 1 or more swap agreements
6 that constitutes the setoff of a claim against the
7 debtor for any payment or other transfer of property
8 due from the debtor under or in connection with any
9 swap agreement against any payment due to the
10 debtor from the swap participant under or in con-
11 nection with any swap agreement or against cash,
12 securities, or other property held by, pledged to, and
13 under the control of, or due from such swap partici-
14 pant to margin guarantee, secure, or settle a swap
15 agreement;”;

16 (D) in paragraph (30) by striking “or” at
17 the end;

18 (E) in paragraph (31) by striking the pe-
19 riod at the end and inserting “; or”; and

20 (F) by inserting after paragraph (31) the
21 following new paragraph:

22 “(32) under subsection (a), of the setoff by a
23 master netting agreement participant of a mutual
24 debt and claim under or in connection with 1 or
25 more master netting agreements or any contract or

1 agreement subject to such agreements that con-
2 stitutes the setoff of a claim against the debtor for
3 any payment or other transfer of property due from
4 the debtor under or in connection with such agree-
5 ments or any contract or agreement subject to such
6 agreements against any payment due to the debtor
7 from such master netting agreement participant
8 under or in connection with such agreements or any
9 contract or agreement subject to such agreements or
10 against cash, securities, or other property held by,
11 pledged or and under the control of, or due from
12 such master netting agreement participant to mar-
13 gin, guarantee, secure, or settle such agreements or
14 any contract or agreement subject to such agree-
15 ments, to the extent such participant is eligible to
16 exercise such offset rights under paragraph (6), (7),
17 or (17) for each individual contract covered by the
18 master netting agreement in issue.”.

19 (2) LIMITATION.—Section 362 of title 11,
20 United States Code, as amended by sections 120,
21 302, and 412, is amended by adding at the end the
22 following:

23 “(1) LIMITATION.—The exercise of rights not subject
24 to the stay arising under subsection (a) pursuant to para-
25 graph (6), (7), or (17), or (31) of subsection (b) shall not

1 be stayed by any order of a court or administrative agency
2 in any proceeding under this title.”.

3 (e) LIMITATION OF AVOIDANCE POWERS UNDER
4 MASTER NETTING AGREEMENT.—Section 546 of title 11,
5 United States Code, as amended by sections 207 and 302,
6 is amended—

7 (1) in subsection (g) (as added by section 103
8 of Public Law 101–311)—

9 (A) by striking “under a swap agreement”;

10 (B) by striking “in connection with a swap
11 agreement” and inserting “under or in connec-
12 tion with any swap agreement”; and

13 (2) by adding at the end the following:

14 “(j) Notwithstanding sections 544, 545, 547,
15 548(a)(2)(B), and 548(b) of this title, the trustee may not
16 avoid a transfer made by or to a master netting agreement
17 participant under or in connection with any master netting
18 agreement or any individual contract covered thereby that
19 is made before the commencement of the case, except
20 under section 548(a)(1)(A) of this title, and except to the
21 extent the trustee could otherwise avoid such a transfer
22 made under an individual contract covered by such master
23 netting agreement.”.

1 (f) FRAUDULENT TRANSFERS OF MASTER NETTING
2 AGREEMENTS.—Section 548(d)(2) of title 11, United
3 States Code, is amended—

4 (1) in subparagraph (C), by striking “and”;

5 (2) in subparagraph (D), by striking the period
6 and inserting “; and”; and

7 (3) by adding at the end the following new sub-
8 paragraph:

9 “(E) a master netting agreement participant
10 that receives a transfer in connection with a master
11 netting agreement or any individual contract covered
12 thereby takes for value to the extent of such trans-
13 fer, except, with respect to a transfer under any in-
14 dividual contract covered thereby, to the extent such
15 master netting agreement participant otherwise did
16 not take (or is otherwise not deemed to have taken)
17 such transfer for value.”.

18 (g) TERMINATION OR ACCELERATION OF SECURITIES
19 CONTRACTS.—Section 555 of title 11, United States Code,
20 is amended—

21 (1) by amending the section heading to read as
22 follows:

1 **“§ 555. Contractual right to liquidate, terminate, or**
2 **accelerate a securities contract”; and**

3 (2) in the first sentence, by striking “liquida-
4 tion” and inserting “liquidation, termination, or ac-
5 celeration”.

6 (h) TERMINATION OR ACCELERATION OF COMMOD-
7 ITIES OR FORWARD CONTRACTS.—Section 556 of title 11,
8 United States Code, is amended—

9 (1) by amending the section heading to read as
10 follows:

11 **“§ 556. Contractual right to liquidate, terminate, or**
12 **accelerate a commodities contract or for-**
13 **ward contract”; and**

14 (2) in the first sentence, by striking “liquida-
15 tion” and inserting “liquidation, termination, or ac-
16 celeration”.

17 (i) TERMINATION OR ACCELERATION OF REPUR-
18 CHASE AGREEMENTS.—Section 559 of title 11, United
19 States Code, is amended—

20 (1) by amending the section heading to read as
21 follows:

22 **“§ 559. Contractual right to liquidate, terminate, or**
23 **accelerate a repurchase agreement”; and**

24 (2) in the first sentence, by striking “liquida-
25 tion” and inserting “liquidation, termination, or ac-
26 celeration”.

1 (j) LIQUIDATION, TERMINATION, OR ACCELERATION
2 OF SWAP AGREEMENTS.—Section 560 of title 11, United
3 States Code, is amended—

4 (1) by amending the section heading to read as
5 follows:

6 **“§ 560. Contractual right to liquidate, terminate, or
7 accelerate a swap agreement”; and**

8 (2) in the first sentence, by striking “termi-
9 nation of a swap agreement” and inserting “liquida-
10 tion, termination, or acceleration of 1 or more swap
11 agreements”; and

12 (3) by striking “in connection with any swap
13 agreement” and inserting “in connection with the
14 termination, liquidation, or acceleration of 1 or more
15 swap agreements”.

16 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR
17 OFFSET UNDER A MASTER NETTING AGREEMENT AND
18 ACROSS CONTRACTS.—(1) Title 11, United States Code,
19 is amended by inserting after section 560 the following:

20 **“§ 561. Contractual right to terminate, liquidate, ac-
21 celerate, or offset under a master netting
22 agreement and across contracts**

23 “(a) IN GENERAL.—Subject to subsection (b), the ex-
24 ercise of any contractual right, because of a condition of
25 the kind specified in section 365(e)(1), to cause the termi-

1 nation, liquidation, or acceleration of or to offset or net
2 termination values, payment amounts or other transfer ob-
3 ligations arising under or in connection with 1 or more
4 (or the termination, liquidation, or acceleration of 1 or
5 more)—

6 “(1) securities contracts, as defined in section
7 741(7);

8 “(2) commodity contracts, as defined in section
9 761(4);

10 “(3) forward contracts;

11 “(4) repurchase agreements;

12 “(5) swap agreements; or

13 “(6) master netting agreements,

14 shall not be stayed, avoided, or otherwise limited by oper-
15 ation of any provision of this title or by any order of a
16 court or administrative agency in any proceeding under
17 this title.

18 “(b) EXCEPTION.—

19 “(1) A party may exercise a contractual right
20 described in subsection (a) to terminate, liquidate, or
21 accelerate only to the extent that such party could
22 exercise such a right under section 555, 556, 559,
23 or 560 for each individual contract covered by the
24 master netting agreement in issue.

1 “(2) If a debtor is a commodity broker subject
2 to subchapter IV of chapter 7 of this title—

3 “(A) a party may not net or offset an obli-
4 gation to the debtor arising under, or in con-
5 nection with, a commodity contract against any
6 claim arising under, or in connection with,
7 other instruments, contracts, or agreements
8 listed in subsection (a) except to the extent the
9 party has positive net equity in the commodity
10 accounts at the debtor, as calculated under sub-
11 chapter IV; and

12 “(B) another commodity broker may not
13 net or offset an obligation to the debtor arising
14 under, or in connection with, a commodity con-
15 tract entered into or held on behalf of a cus-
16 tomer of the debtor against any claim arising
17 under, or in connection with, other instruments,
18 contracts, or agreements listed in subsection
19 (a).

20 “(c) DEFINITION.—As used in this section, the term
21 ‘contractual right’ includes a right set forth in a rule or
22 bylaw of a national securities exchange, a national securi-
23 ties association, or a securities clearing agency, a right
24 set forth in a bylaw of a clearing organization or contract
25 market or in a resolution of the governing board thereof,

1 and a right, whether or not evidenced in writing, arising
2 under common law, under law merchant, or by reason of
3 normal business practice.”.

4 (2) CONFORMING AMENDMENT.—The table of sec-
5 tions of chapter 9 of title 11, United States Code, is
6 amended by inserting after the item relating to section
7 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a
master netting agreement and across contracts.

8 (1) ANCILLARY PROCEEDINGS.—Section 304 of title
9 11, United States Code, as amended by section 215, is
10 amended by adding at the end the following:

11 “(c) Any provisions of this title relating to securities
12 contracts, commodity contracts, forward contracts, repur-
13 chase agreements, swap agreements, or master netting
14 agreements shall apply in a case ancillary to a foreign pro-
15 ceeding under this section or any other section of this title,
16 so that enforcement of contractual provisions of such con-
17 tracts and agreements in accordance with their terms will
18 not be stayed or otherwise limited by operation of any pro-
19 vision of this title or by order of a court in any case under
20 this title, and to limit avoidance powers to the same extent
21 as in a proceeding under chapter 7 or 11 of this title (such
22 enforcement not to be limited based on the presence or
23 absence of assets of the debtor in the United States).”.

1 (m) COMMODITY BROKER LIQUIDATIONS.—Title 11,
2 United States Code, is amended by inserting after section
3 766 the following:

4 **“§ 767. Commodity broker liquidation and forward**
5 **contract merchants, commodity brokers,**
6 **stockbrokers, financial institutions, secu-**
7 **rities clearing agencies, swap partici-**
8 **pants, repo participants, and master net-**
9 **ting agreement participants**

10 “Notwithstanding any other provision of this title,
11 the exercise of rights by a forward contract merchant,
12 commodity broker, stockbroker, financial institution, secu-
13 rities clearing agency, swap participant, repo participant,
14 or master netting agreement participant under this title
15 shall not affect the priority of any unsecured claim it may
16 have after the exercise of such rights.”.

17 (n) STOCKBROKER LIQUIDATIONS.—Title 11, United
18 States Code, is amended by inserting after section 752 the
19 following:

1 **“§ 753. Stockbroker liquidation and forward contract**
2 **merchants, commodity brokers, stock-**
3 **brokers, financial institutions, securities**
4 **clearing agencies, swap participants,**
5 **repo participants, and master netting**
6 **agreement participants**

7 “Notwithstanding any other provision of this title,
8 the exercise of rights by a forward contract merchant,
9 commodity broker, stockbroker, financial institution, secu-
10 rities clearing agency, swap participant, repo participant,
11 financial participant, or master netting agreement partici-
12 pant under this title shall not affect the priority of any
13 unsecured claim it may have after the exercise of such
14 rights.”.

15 (o) SETOFF.—Section 553 of title 11, United States
16 Code, is amended—

17 (1) in subsection (a)(3)(C), by inserting “(ex-
18 cept for a setoff of a kind described in section
19 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(19), 555,
20 556, 559, 560 or 561 of this title)” before the pe-
21 riod; and

22 (2) in subsection (b)(1), by striking
23 “362(b)(14),” and inserting “362(b)(17),
24 362(b)(19), 555, 556, 559, 560, 561”.

1 (p) SECURITIES CONTRACTS, COMMODITY CON-
2 TRACTS, AND FORWARD CONTRACTS.—Title 11, United
3 States Code, is amended—

4 (1) in section 362(b)(6), by striking “financial
5 institutions,” each place such term appears and in-
6 serting “financial institution, financial participant”;

7 (2) in section 546(e), by inserting “financial
8 participant,” after “financial institution,”;

9 (3) in section 548(d)(2)(B), by inserting “fi-
10 nancial participant,” after “financial institution,”;

11 (4) in section 555—

12 (A) by inserting “financial participant,”
13 after “financial institution,”; and

14 (B) by inserting before the period at the
15 end “, a right set forth in a bylaw of a clearing
16 organization or contract market or in a resolu-
17 tion of the governing board thereof, and a right,
18 whether or not in writing, arising under com-
19 mon law, under law merchant, or by reason of
20 normal business practice”; and

21 (5) in section 556, by inserting “, financial par-
22 ticipant” after “commodity broker”.

23 (q) CONFORMING AMENDMENTS.—Title 11 of the
24 United States Code is amended—

25 (1) in the table of sections of chapter 5—

1 (A) by amending the items relating to sec-
2 tions 555 and 556 to read as follows:

“555. Contractual right to liquidate, terminate, or accelerate a securities con-
tract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities con-
tract or forward contract.”; and

3 (B) by amending the items relating to sec-
4 tions 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase
agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agree-
ment.”; and

5 (2) in the table of sections of chapter 7—

6 (A) by inserting after the item relating to
7 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commod-
ity brokers, stockbrokers, financial institutions, securities clear-
ing agencies, swap participants, repo participants, and master
netting agreement participants.”; and

8 (B) by inserting after the item relating to
9 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity bro-
kers, stockbrokers, financial institutions, securities clearing
agencies, swap participants, repo participants, and master net-
ting agreement participants.”.

10 **SEC. 1008. RECORDKEEPING REQUIREMENTS.**

11 Section 11(e)(8) of the Federal Deposit Insurance
12 Act (12 U.S.C. 1821(e)(8)) is amended by adding at the
13 end the following new subparagraph:

14 “(H) RECORDKEEPING REQUIREMENTS.—

15 The Corporation, in consultation with the ap-
16 propriate Federal banking agencies, may pre-
17 scribe regulations requiring more detailed rec-

1 ordkeeping with respect to qualified financial
2 contracts (including market valuations) by in-
3 sured depository institutions.”.

4 **SEC. 1009. EXEMPTIONS FROM CONTEMPORANEOUS EXE-**
5 **CUTION —REQUIREMENT.**

6 Section 13(e)(2) of the Federal Deposit Insurance
7 Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

8 “(2) EXEMPTIONS FROM CONTEMPORANEOUS
9 EXECUTION REQUIREMENT.—An agreement to pro-
10 vide for the lawful collateralization of—

11 “(A) deposits of, or other credit extension
12 by, a Federal, State, or local governmental en-
13 tity, or of any depositor referred to in section
14 11(a)(2), including an agreement to provide col-
15 lateral in lieu of a surety bond;

16 “(B) bankruptcy estate funds pursuant to
17 section 345(b)(2) of title 11, United States
18 Code;

19 “(C) extensions of credit, including any
20 overdraft, from a Federal reserve bank or Fed-
21 eral home loan bank; or

22 “(D) 1 or more qualified financial con-
23 tracts, as defined in section 11(e)(8)(D),
24 shall not be deemed invalid pursuant to paragraph
25 (1)(B) solely because such agreement was not exe-

1 cuted contemporaneously with the acquisition of the
2 collateral or because of pledges, delivery, or substi-
3 tution of the collateral made in accordance with such
4 agreement.”.

5 **SEC. 1010. DAMAGE MEASURE.**

6 (a) Title 11, United States Code, as amended by sec-
7 tion 1007, is amended—

8 (1) by inserting after section 561 the following:

9 **“§ 562. Damage measure in connection with swap**
10 **agreements, securities contracts, forward**
11 **contracts, commodity contracts, repur-**
12 **chase agreements, or master netting**
13 **agreements**

14 “If the trustee rejects a swap agreement, securities
15 contract as defined in section 741 of this title, forward
16 contract, commodity contract (as defined in section 761
17 of this title) repurchase agreement, or master netting
18 agreement pursuant to section 365(a) of this title, or if
19 a forward contract merchant, stockbroker, financial insti-
20 tution, securities clearing agency, repo participant, finan-
21 cial participant, master netting agreement participant, or
22 swap participant liquidates, terminates, or accelerates
23 such contract or agreement, damages shall be measured
24 as of the earlier of—

25 “(1) the date of such rejection; or

1 “(2) the date of such liquidation, termination,
2 or acceleration.”; and

3 (2) in the table of sections of chapter 5 by in-
4 serting after the item relating to section 561 the fol-
5 lowing:

 “562. Damage measure in connection with swap agreements, securities con-
 tracts, forward contracts, commodity contracts, repurchase
 agreements, or master netting agreements.”.

6 (b) CLAIMS ARISING FROM REJECTION.—Section
7 502(g) of title 11, United States Code, is amended—

8 (1) by designating the existing text as para-
9 graph (1); and

10 (2) by adding at the end the following:

11 “(2) A claim for damages calculated in accordance
12 with section 561 of this title shall be allowed under sub-
13 section (a), (b), or (c), or disallowed under subsection (d)
14 or (e), as if such claim had arisen before the date of the
15 filing of the petition.”.

16 **SEC. 1011. SIPC STAY.**

17 Section 5(b)(2) of the Securities Investor Protection
18 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding
19 after subparagraph (B) the following new subparagraph:

20 “(C) EXCEPTION FROM STAY.—

21 “(i) Notwithstanding section 362 of
22 title 11, United States Code, neither the
23 filing of an application under subsection
24 (a)(3) nor any order or decree obtained by

1 Securities Investor Protection Corporation
2 from the court shall operate as a stay of
3 any contractual rights of a creditor to liq-
4 uidate, terminate, or accelerate a securities
5 contract, commodity contract, forward con-
6 tract, repurchase agreement, swap agree-
7 ment, or master netting agreement, each
8 as defined in title 11, to offset or net ter-
9 mination values, payment amounts, or
10 other transfer obligations arising under or
11 in connection with 1 or more of such con-
12 tracts or agreements, or to foreclose on
13 any cash collateral pledged by the debtor
14 whether or not with respect to 1 or more
15 of such contracts or agreements.

16 “(ii) Notwithstanding clause (i), such
17 application, order, or decree may operate
18 as a stay of the foreclosure on securities
19 collateral pledged by the debtor, whether
20 or not with respect to 1 or more of such
21 contracts or agreements, securities sold by
22 the debtor under a repurchase agreement
23 or securities lent under a securities lending
24 agreement.

1 “(iii) As used in this section, the term
2 ‘contractual right’ includes a right set
3 forth in a rule or bylaw of a national secu-
4 rities exchange, a national securities asso-
5 ciation, or a securities clearing agency, a
6 right set forth in a bylaw of a clearing or-
7 ganization or contract market or in a reso-
8 lution of the governing board thereof, and
9 a right, whether or not in writing, arising
10 under common law, under law merchant,
11 or by reason of normal business practice.”.

12 **SEC. 1012. ASSET-BACKED SECURITIZATIONS.**

13 Section 541 of title 11, United States Code, as
14 amended by section 150, is amended—

15 (1) by redesignating paragraph (5) of sub-
16 section (b) as paragraph (6);

17 (2) by inserting after paragraph (4) of sub-
18 section (b) the following new paragraph:

19 “(5) any eligible asset (or proceeds thereof), to
20 the extent that such eligible asset was transferred by
21 the debtor, before the date of commencement of the
22 case, to an eligible entity in connection with an
23 asset-backed securitization, except to the extent such
24 asset (or proceeds or value thereof) may be recov-

1 ered by the trustee under section 550 by virtue of
2 avoidance under section 548(a);” and

3 (3) by adding at the end the following new sub-
4 section:

5 “(e) For purposes of this section, the following defini-
6 tions shall apply:

7 “(1) the term ‘asset-backed securitization’
8 means a transaction in which eligible assets trans-
9 ferred to an eligible entity are used as the source of
10 payment on securities, the most senior of which are
11 rated investment grade by 1 or more nationally rec-
12 ognized securities rating organizations, issued by an
13 issuer;

14 “(2) the term ‘eligible asset’ means—

15 “(A) financial assets (including interests
16 therein and proceeds thereof), either fixed or re-
17 volving, including residential and commercial
18 mortgage loans, consumer receivables, trade re-
19 ceivables, and lease receivables, that, by their
20 terms, convert into cash within a finite time pe-
21 riod, plus any residual interest in property sub-
22 ject to receivables included in such financial as-
23 sets plus any rights or other assets designed to
24 assure the servicing or timely distribution of
25 proceeds to security holders;

1 “(B) cash; and

2 “(C) securities.

3 “(3) the term ‘eligible entity’ means—

4 “(A) an issuer; or

5 “(B) a trust, corporation, partnership, or
6 other entity engaged exclusively in the business
7 of acquiring and transferring eligible assets di-
8 rectly or indirectly to an issuer and taking ac-
9 tions ancillary thereto;

10 “(4) the term ‘issuer’ means a trust, corpora-
11 tion, partnership, or other entity engaged exclusively
12 in the business of acquiring and holding eligible as-
13 sets, issuing securities backed by eligible assets, and
14 taking actions ancillary thereto; and

15 “(5) the term ‘transferred’ means the debtor,
16 pursuant to a written agreement, represented and
17 warranted that eligible assets were sold, contributed,
18 or otherwise conveyed with the intention of removing
19 them from the estate of the debtor pursuant to sub-
20 section (b)(5), irrespective, without limitation of—

21 “(A) whether the debtor directly or indi-
22 rectly obtained or held an interest in the issuer
23 or in any securities issued by the issuer;

24 “(B) whether the debtor had an obligation
25 to repurchase or to service or supervise the

1 servicing of all or any portion of such eligible
2 assets; or

3 “(C) the characterization of such sale, con-
4 tribution, or other conveyance for tax, account-
5 ing, regulatory reporting, or other purposes.”.

6 **SEC. 1013. FEDERAL RESERVE COLLATERAL REQUIRE-**
7 **MENTS.**

8 The 3d sentence of the 3d undesignated paragraph
9 of section 16 of the Federal Reserve Act (12 U.S.C. 412)
10 is amended by striking “acceptances acquired under the
11 provisions of section 13 of this Act” and inserting “accept-
12 ances acquired under section 10A, 10B, 13, or 13A of this
13 Act”.

14 **SEC. 1014. EFFECTIVE DATE; APPLICATION OF —AMEND-**
15 **MENTS.**

16 (a) **EFFECTIVE DATE.**—This title shall take effect on
17 the date of the enactment of this Act.

18 (b) **APPLICATION OF AMENDMENTS.**—The amend-
19 ments made by this title shall apply with respect to cases
20 commenced or appointments made under any Federal or
21 State law after the date of enactment of this Act, but shall
22 not apply with respect to cases commenced or appoint-
23 ments made under any Federal or State law before the
24 date of enactment of this Act.

1 **TITLE XI—TECHNICAL**
2 **CORRECTIONS**

3 **SEC. 1101. DEFINITIONS.**

4 Section 101 of title 11, United States Code, as
5 amended by sections 102, 105, 132, 138, 301, 302, 402,
6 902, and 1007, is amended—

7 (1) by striking “In this title—” and inserting
8 “In this title.”;

9 (2) in each paragraph, by inserting “The term”
10 after the paragraph designation;

11 (3) in paragraph (35)(B), by striking “para-
12 graphs (21B) and (33)(A)” and inserting “para-
13 graphs (23) and (35)”;

14 (4) in each of paragraphs (35A) and (38), by
15 striking “; and” at the end and inserting a period;

16 (5) in paragraph (51B)—

17 (A) by inserting “who is not a family farm-
18 er” after “debtor” the first place it appears;
19 and

20 (B) by striking “thereto having aggregate”
21 and all that follows through the end of the
22 paragraph;

23 (6) by amending paragraph (54) to read as fol-
24 lows:

25 “(54) The term ‘transfer’ means—

1 “(A) the creation of a lien;

2 “(B) the retention of title as a security in-
3 terest;

4 “(C) the foreclosure of a debtor’s equity of
5 redemption; or

6 “(D) each mode, direct or indirect, abso-
7 lute or conditional, voluntary or involuntary, of
8 disposing of or parting with—

9 “(i) property; or

10 “(ii) an interest in property;”;

11 (7) in each of paragraphs (1) through (35), in
12 each of paragraphs (36) and (37), and in each of
13 paragraphs (40) through (55) (including paragraph
14 (54), as amended by paragraph (6) of this section),
15 by striking the semicolon at the end and inserting a
16 period; and

17 (8) by redesignating paragraphs (4) through
18 (55), including paragraph (54), as amended by para-
19 graph (6) of this section, in entirely numerical se-
20 quence.

21 **SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.**

22 Section 104 of title 11, United States Code, is
23 amended by inserting “522(f)(3), 707(b)(5),” after
24 “522(d),” each place it appears.

1 **SEC. 1103. EXTENSION OF TIME.**

2 Section 108(c)(2) of title 11, United States Code, is
3 amended by striking “922” and all that follows through
4 “or”, and inserting “922, 1201, or”.

5 **SEC. 1104. TECHNICAL AMENDMENTS.**

6 Title 11 of the United States Code is amended—

7 (1) in section 109(b)(2) by striking “subsection
8 (c) or (d) of”; and

9 (2) in section 552(b)(1) by striking “product”
10 each place it appears and inserting “products”.

11 **SEC. 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
12 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
13 **TITIONS.**

14 Section 110(j)(3) of title 11, United States Code, is
15 amended by striking “attorney’s” and inserting
16 “attorneys’ ”.

17 **SEC. 1106. LIMITATION ON COMPENSATION OF PROFES-**
18 **SIONAL PERSONS.**

19 Section 328(a) of title 11, United States Code, is
20 amended by inserting “on a fixed or percentage fee basis,”
21 after “hourly basis,”.

22 **SEC. 1107. SPECIAL TAX PROVISIONS.**

23 Section 346(g)(1)(C) of title 11, United States Code,
24 is amended by striking “, except” and all that follows
25 through “1986”.

1 **SEC. 1108. EFFECT OF CONVERSION.**

2 Section 348(f)(2) of title 11, United States Code, is
3 amended by inserting “of the estate” after “property” the
4 first place it appears.

5 **SEC. 1109. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

6 Section 503(b)(4) of title 11, United States Code, is
7 amended by inserting “subparagraph (A), (B), (C), (D),
8 or (E) of” before “paragraph (3)”.

9 **SEC. 1110. PRIORITIES.**

10 Section 507(a) of title 11, United States Code, as
11 amended by section 323, is amended in paragraph (4), as
12 so redesignated by section 142, by striking the semicolon
13 at the end and inserting a period.

14 **SEC. 1111. EXEMPTIONS.**

15 Section 522(g)(2) of title 11, United States Code, is
16 amended by striking “subsection (f)(2)” and inserting
17 “subsection (f)(1)(B)”.

18 **SEC. 1112. EXCEPTIONS TO DISCHARGE.**

19 Section 523 of title 11, United States Code, as
20 amended by section 146, is amended—

21 (1) in subsection (a)(3), by striking “or (6)”
22 each place it appears and inserting “(6), or (15)”;

23 (2) as amended by section 304(e) of Public Law
24 103–394 (108 Stat. 4133), in paragraph (15), by
25 transferring such paragraph so as to insert it after
26 paragraph (14A) of subsection (a);

1 (3) in subsection (a)(9), by inserting
2 “, watercraft, or aircraft” after “motor vehicle”;

3 (4) in subsection (a)(15), as so redesignated by
4 paragraph (2) of this subsection, by inserting “to a
5 spouse, former spouse, or child of the debtor and”
6 after “(15)”; and

7 (5) in subsection (e), by striking “a insured”
8 and inserting “an insured”.

9 **SEC. 1113. EFFECT OF DISCHARGE.**

10 Section 524(a)(3) of title 11, United States Code, is
11 amended by striking “section 523” and all that follows
12 through “or that” and inserting “section 523, 1228(a)(1),
13 or 1328(a)(1) of this title, or that”.

14 **SEC. 1114. PROTECTION AGAINST DISCRIMINATORY TREAT-**
15 **MENT.**

16 Section 525(e) of title 11, United States Code, is
17 amended—

18 (1) in paragraph (1), by inserting “student” be-
19 fore “grant” the second place it appears; and

20 (2) in paragraph (2), by striking “the program
21 operated under part B, D, or E of” and inserting
22 “any program operated under”.

23 **SEC. 1115. PROPERTY OF THE ESTATE.**

24 Section 541(b)(4)(B)(ii) of title 11, United States
25 Code, is amended by inserting “365 or” before “542”.

1 **SEC. 1116. PREFERENCES.**

2 (a) IN GENERAL.—Section 547 of title 11, United
3 States Code, is amended—

4 (1) in subsection (b), by striking “subsection
5 (c)” and inserting “subsections (c) and (i)”; and

6 (2) by adding at the end the following:

7 “(i) If the trustee avoids under subsection (b) a
8 transfer made between 90 days and 1 year before the date
9 of the filing of the petition, by the debtor to an entity
10 that is not an insider for the benefit of a creditor that
11 is an insider, such transfer may be avoided under this sec-
12 tion only with respect to the creditor that is an insider.”.

13 (b) APPLICABILITY.—The amendments made by this
14 section shall apply to any case that is pending or com-
15 menced on or after the date of enactment of this Act.

16 **SEC. 1117. POSTPETITION TRANSACTIONS.**

17 Section 549(c) of title 11, United States Code, is
18 amended—

19 (1) by inserting “an interest in” after “transfer
20 of”;

21 (2) by striking “such property” and inserting
22 “such real property”; and

23 (3) by striking “the interest” and inserting
24 “such interest”.

1 **SEC. 1118. DISPOSITION OF PROPERTY OF THE ESTATE.**

2 Section 726(b) of title 11, United States Code, is
3 amended by striking “1009,”.

4 **SEC. 1119. GENERAL PROVISIONS.**

5 Section 901(a) of title 11, United States Code, is
6 amended by inserting “1123(d),” after “1123(b),”.

7 **SEC. 1120. APPOINTMENT OF ELECTED TRUSTEE.**

8 Section 1104(b) of title 11, United States Code, is
9 amended—

10 (1) by inserting “(1)” after “(b)”; and

11 (2) by adding at the end the following:

12 “(2)(A) If an eligible, disinterested trustee is elected
13 at a meeting of creditors under paragraph (1), the United
14 States trustee shall file a report certifying that election.
15 Upon the filing of a report under the preceding sentence—

16 “(i) the trustee elected under paragraph (1)
17 shall be considered to have been selected and ap-
18 pointed for purposes of this section; and

19 “(ii) the service of any trustee appointed under
20 subsection (d) shall terminate.

21 “(B) In the case of any dispute arising out of an elec-
22 tion under subparagraph (A), the court shall resolve the
23 dispute.”.

1 **SEC. 1121. ABANDONMENT OF RAILROAD LINE.**

2 Section 1170(e)(1) of title 11, United States Code,
3 is amended by striking “section 11347” and inserting
4 “section 11326(a)”.

5 **SEC. 1122. CONTENTS OF PLAN.**

6 Section 1172(c)(1) of title 11, United States Code,
7 is amended by striking “section 11347” and inserting
8 “section 11326(a)”.

9 **SEC. 1123. DISCHARGE UNDER CHAPTER 12.**

10 Subsections (a) and (c) of section 1228 of title 11,
11 United States Code, are amended by striking
12 “1222(b)(10)” each place it appears and inserting
13 “1222(b)(9)”.

14 **SEC. 1124. BANKRUPTCY CASES AND PROCEEDINGS.**

15 Section 1334(d) of title 28, United States Code, is
16 amended—

17 (1) by striking “made under this subsection”
18 and inserting “made under subsection (c)”; and

19 (2) by striking “This subsection” and inserting
20 “Subsection (c) and this subsection”.

21 **SEC. 1125. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
22 **RULE.**

23 Section 156(a) of title 18, United States Code, is
24 amended—

25 (1) in the first undesignated paragraph—

1 (A) by inserting “(1) the term” before
2 “bankruptcy”; and

3 (B) by striking the period at the end and
4 inserting “; and”; and
5 (2) in the second undesignated paragraph—

6 (A) by inserting “(2) the term” before
7 “document”; and

8 (B) by striking “this title” and inserting
9 “title 11”.

10 **SEC. 1126. TRANSFERS MADE BY NONPROFIT CHARITABLE**
11 **CORPORATIONS.**

12 (a) SALE OF PROPERTY OF ESTATE.—Section 363(d)
13 of title 11, United States Code, is amended—

14 (1) by striking “only” and all that follows
15 through the end of the subsection and inserting
16 “only—

17 “(1) in accordance with applicable nonbank-
18 ruptcy law that governs the transfer of property by
19 a corporation or trust that is not a moneyed, busi-
20 ness, or commercial corporation or trust; and

21 “(2) to the extent not inconsistent with any re-
22 lief granted under subsection (c), (d), (e), or (f) of
23 section 362 of this title.”.

24 (b) CONFIRMATION OF PLAN FOR REORGANIZA-
25 TION.—Section 1129(a) of title 11, United States Code,

1 as amended by section 140, is amended by adding at the
2 end the following:

3 “(15) All transfers of property of the plan shall
4 be made in accordance with any applicable provi-
5 sions of nonbankruptcy law that govern the transfer
6 of property by a corporation or trust that is not a
7 moneyed, business, or commercial corporation or
8 trust.”.

9 (c) TRANSFER OF PROPERTY.—Section 541 of title
10 11, United States Code, as amended by section 1102, is
11 amended by adding at the end the following:

12 “(f) Notwithstanding any other provision of this title,
13 property that is held by a debtor that is a corporation de-
14 scribed in section 501(c)(3) of the Internal Revenue Code
15 of 1986 and exempt from tax under section 501(a) of such
16 Code may be transferred to an entity that is not such a
17 corporation, but only under the same conditions as would
18 apply if the debtor had not filed a case under this title.”.

19 (d) APPLICABILITY.—The amendments made by this
20 section shall apply to a case pending under title 11, United
21 States Code, on the date of enactment of this Act, except
22 that the court shall not confirm a plan under chapter 11
23 of this title without considering whether this section would
24 substantially affect the rights of a party in interest who
25 first acquired rights with respect to the debtor after the

1 date of the petition. The parties who may appear and be
2 heard in a proceeding under this section include the attor-
3 ney general of the State in which the debtor is incor-
4 porated, was formed, or does business.

5 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be deemed to require the court in which a case
7 under chapter 11 is pending to remand or refer any pro-
8 ceeding, issue, or controversy to any other court or to re-
9 quire the approval of any other court for the transfer of
10 property.

11 **SEC. 1127. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
12 **URE TO INCUR FINANCE CHARGES.**

13 Section 127 of the Truth in Lending Act (15 U.S.C.
14 1637) is amended by adding at the end the following:

15 “(i) **PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
16 **URE TO INCUR FINANCE CHARGES.**—A creditor of an ac-
17 count under an open end consumer credit plan may not
18 terminate an account prior to its expiration date solely be-
19 cause the consumer has not incurred finance charges on
20 the account. Nothing in this subsection shall prohibit a
21 creditor from terminating an account for inactivity in 3
22 or more consecutive months.”.

1 **SEC. 1128. PROTECTION OF VALID PURCHASE MONEY SE-**
2 **CURITY INTERESTS.**

3 Section 547(c)(3)(B) of title 11, United States Code,
4 is amended by striking “20” and inserting “30”.

5 **SEC. 1129. TRUSTEES.**

6 (a) **SUSPENSION AND TERMINATION OF PANEL**
7 **TRUSTEES AND STANDING TRUSTEES.**—Section 586(d) of
8 title 28, United States Code, is amended—

9 (1) by inserting “(1)” after “(d)”; and

10 (2) by adding at the end the following:

11 “(2) A trustee whose appointment under subsection
12 (a)(1) or under subsection (b) is terminated or who ceases
13 to be assigned to cases filed under title 11 of the United
14 States Code may obtain judicial review of the final agency
15 decision by commencing an action in the United States
16 district court for the district for which the panel to which
17 the trustee is appointed under subsection (a)(1), or in the
18 United States district court for the district in which the
19 trustee is appointed under subsection (b) resides, after
20 first exhausting all available administrative remedies,
21 which if the trustee so elects, shall also include an admin-
22 istrative hearing on the record. Unless the trustee elects
23 to have an administrative hearing on the record, the trust-
24 ee shall be deemed to have exhausted all administrative
25 remedies for purposes of this paragraph if the agency fails
26 to make a final agency decision within 90 days after the

1 trustee requests administrative remedies. The Attorney
2 General shall prescribe procedures to implement this para-
3 graph. The decision of the agency shall be affirmed by
4 the district court unless it is unreasonable and without
5 cause based on the administrative record before the agen-
6 cy.”.

7 (b) EXPENSES OF STANDING TRUSTEES.—Section
8 586(e) of title 28, United States Code, is amended by add-
9 ing at the end the following:

10 “(3) After first exhausting all available administra-
11 tive remedies, an individual appointed under subsection
12 (b) may obtain judicial review of final agency action to
13 deny a claim of actual, necessary expenses under this sub-
14 section by commencing an action in the United States dis-
15 trict court in the district where the individual resides. The
16 decision of the agency shall be affirmed by the district
17 court unless it is unreasonable and without cause based
18 upon the administrative record before the agency.

19 “(4) The Attorney General shall prescribe procedures
20 to implement this subsection.”.

1 **TITLE XII—GENERAL EFFECTIVE**
2 **DATE; APPLICATION OF**
3 **AMENDMENTS**

4 **SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMEND-**
5 **MENTS.**

6 (a) **EFFECTIVE DATE.**—Except as provided otherwise
7 in this Act, this Act and the amendments made by this
8 Act shall take effect 180 days after the date of the enact-
9 ment of this Act.

10 (b) **APPLICATION OF AMENDMENTS.**—Except as oth-
11 erwise provided in this Act, the amendments made by this
12 Act shall not apply with respect to cases commenced under
13 title 11 of the United States Code before the effective date
14 of this Act.